Cottoni Posthuma:

DIVERS

CHOICE PIECES

OF THAT

Renowned Antiquary

Sir *ROBERT COTTON*,

Knight and Baronet,

Preserved from the injury of Time, and Expos'd to public light, for the benefit of Posterity,

By *J. H.* Esq;

LONDON,

Printed by *Francis Leach*, for *Henry Seile* over against St. *Dunstans* Church in Fleetestreet, 1651.

To his worthily Honoured Frend, Sir *Robert Pye* Knight, at his House in *Westminster.*

SIR,

He long interest of Frendship, and neernes of Neighbourhood which gave you the opportunity of conversing often with that worthy Baronet, who was Author of these ensuing Discourses, induced me to this Dedicatory Address. Among the Greeks *and* Romans *(who were the two Luminaries that first diffused the rayes of Knowledg and Civility through these North-west Clymes,) He was put in the rank of the best sorts of* Patriots, *who preserved from putrefaction & the rust of Time, the Memory and Works of* Vertuous *Men, by exposing them to open light for the generall Good;*

Therfore I hope not to deserve ill of my Country, that I have published to the World these choice notions of that learned Knight Sir Robert Cotton, *who for his exact recerchez into* Antiquity, *hath made himself famous to* Posterity.

Plutark *in writing the* lifes *of* Others, *made his* own *everlasting; So an* Antiquary *while he feels the pulse of* former *Ages, and makes them known to the* present, *renders Himself long-liv'd to the* future.

Ther was another inducement that mov'd me to this choice of Dedication, and it was the high respects I owe you upon sundry obligations, and consequently the desire I had that both the present, *and* after *times might bear witnes, how much I* am, *and* was

Sir,

3. *Nonas April.* 1651.

Your humble, and truly devoted Servant

James Howell.

To

To the knowing Reader, touching these following Discourses, and their AUTHOR:

THe memory of som men is like the *Rose*, and other odoriferous flowers which cast a sweeter and stronger smell after they are pluck'd; The memory of Others may be said to be like the *Poppie*, and such Vegetalls that make a gay and specious shew while they stand upon the stalk, but being cut and gatherd they have but an ill-favord sent; This worthy Knight may be compared to the first sort, as well for the sweet odor (of a good name) he had while he stood, as also after he was cut down by the common stroke of Mortality; Now, to augment the *fragrancy* of his Vertues and Memory, these following Discourses, which I may term, not altogether improperly, a *Posie* of sundry diffring *Flowers*, are expos'd to the World.

All who ever knew this well-weighed Knight,

14. *A brief Discours concerning the Power of the Peers and Commons of Parlement, in point of Judicature.*
15. *Honesty, Ambition and Fortitud Anatomized by Sir* Francis Walsingham.
16. *The Life and Raign of* Henry *the Third, compiled in a Critical way.*

These Discourses, being judiciously read, will much tend to the enriching of the understanding, and improvement of the Common stock of Knowledg.

A RELATION OF THE PROCEEDINGS AGAINST AMBASSADORS

VVho have miſcaried themſelves, &c.

IN humble obedience to your Grace's Command, I am emboldned to preſent my poor advice to this the greateſt, and moſt important cauſe that ever hapned in this State, the Quiet of the Kingdom, the Honor of the Prince, the Safety of the *Spaniſh* Ambaſſadors perſon expoſed hereby to the fury of the People, all herein involved; A conſideration not the leaſt for the reputation of the State, and Government, though he little deſerved it.

The information made to his ſacred

Majesty by him, That your *Grace* should have plotted this Parliament; Wherein if his Majesty did not accord to your designes, then by the Authority of this Parliament to confine his sacred Person to some place of pleasure, and transfer the Regall power upon the *Prince*; This Information if it were made by a Subject, by the Lawes of the Realm were high Treason, to breed a rupture between the Soveraignty, and the Nobility, either by Reports or Writings, and by the Common Law is adjudged no lesse: The Author yet knowing that by the representing the Person of a soveraine he *Prince* is by the law of Nations exempt from Regall tryall, all actions of one so qualified being made the Act of his Master, untill he disavow; And injuries of one absolute *Prince* to another, is *Factum hostilitatis*, and not *Treason*; The immunity of whom *Civilians* collect as they doe the rest of their grounds from the practise of the *Roman* State, deducing their Arguments from these Examples. The *Fabii* Ambassadors from *Rome* were turned safe from the *Chades* with demand of justice against them onely, although they had been taken bearing Armes with the *Ethrurians* their Enemies: The Ambassadors of the *Tarquines*, *Morte affligendos Romani non judicarunt, & quanquam visi sunt ut hostium loco essent, jus tamen Gentium voluit.* And where those of *Syphax* had plotted the murther of *Masi-*

Titus Livius 2. Dec.

Livius.

nissa

nissa, Non aliud mihi factum quam quod sceleris sui reprehensi essent, saith *Appian*: The Ambassadors of the Protestants at the Counsell of *Trent* though divulging there the Doctrine of the Churches, contrary to a Decree there enacted, a crime equivalent to *Treason*, yet stood they protected from any punishment: So much doth public conveniency prevail against a particular mischief; That the State of *Rome* though in case of the most capitall crime, exempted the *Tribunes* of the people from question, during the year of office; And the *Civilians* all consent, that *Legis de Jure Gentium inductum est, & eorum corpora salva sint, Propter necessitatē legationis, ac ne confundant jura comercij inter Principes*, The redress of such injuries, by such persons, the example of Modern and best times wil lead us to. *Vivia* the *Popes* Legate was restrained by *Henry* the second, for exercising a power in his Realm, not admitted by the King, in disquiet of the State, and forced to swear not to act any thing in *Præiudicium Regis vel Regni*. *Hen.* 3. did the like to one of the Popes Embassadors, another flying the Realm secretly fearing *timens pelli sui* as the Record saith. *Edward* 1. so restraining another untill he had, as his Progenitors had, informed the Pope of the fault of his Minister, and received satisfaction of the wrongs. In the year 1523. *Lewis de Pratt*: Ambassador for *Charles* 5. was commanded to his house, for accusing falsly

Acta: Triden: Concil.

August. de legibus Antiq. Roman.

Benedict. in vita Hen. 2.

Record. in *Scaccar. West: Claus. Edw. 1.*

Lewes in the Paper Chart. 1523.

falsly *Cardinall Wolsey* to have practized a breach between *Hen.* 8. and his Master, to make up the Amity with the *French* King; Sir *Michael Throgmorton* by *Charles* the 9. of *France*, was so served, for being too busie with the *Prince* of *Condy* in his faction. Doctor *Man* in the yeare 1567. was taken from his own house in *Madrill*, and put under a Guard to a straiter Lodging, for breeding a Scandall (as the *Conde Teri* said) in using by warrant of his Place the Religion of his Countrey, although he alleged the like permitted to *Ghusman de Silva* their Ambassador, and to the *Turk* no lesse than in *Spain*. In the year 1568. *Don Ghuernon a' Espes* was ordered to keep his house in *London*, for sending scandalous Letters to the *Duke a' Alva* unsealed. The Bishop of *Rosse* in the year 1571. Was first confined to his house, after to the Tower, then committed for a good space to the Bishop of *Ely* his care, for medling with more business than belonged to the place of his imployment: The like was done to Dr. *Alpin* & *Malvisett* the *French* Ambassadors successively, for being busie in more than their Masters affaires. In the time of *Philip* the second of *Spain*, the *Venetian* Ambassador in *Madrill*, protecting an offendor that fled into his house, and denying the Heads or Iustices to enter his house, where the Ambassador stood armed to withstand them, and one *Bodavario* a *Venetian*, whom they

they committed to Prison, for his unruly carriage, and they removed the Ambassador unto another house, untill they had searched and found the Offendor; Then conducting back the Ambassador, set a guard upon his house, to stay the fury of the people enraged. The Ambassador complaining to the King, he remitted it to the supreme Councell; They justified the proceeding, condemning *Bodavario* to lose his head, & other the Ambassadors servants to the Galleys, all which the King turned to banishment, sending the whole process to *Inego de Mendoza* his Ambassador at *Venise*, and declaring by a public ordinance unto that *State*, and all other *Princes*, that in case his Ambassadors should commit any offence, unworthily, and disagreeing to their professions, they should not then enjoy the privilege of those officers, referring them to be judged by where they then resided. *Barnardino de Mendoza* for traducing falsly the Ministers of the State to further his seditious plots, was restrained first, and after commanded away in the year 1586. The last of *Spanish* Instruments that disquieted this State, a benefit wee found many yeares after by their absence, and feel the want of it now by their reduction.

Having thus shortly touched upon such precedent examples, as have fallen in the way, in my poor observation, I humbly crave pardon to offer up my simple o-

pinion what courſe may beſt be had of proſecution of this urgent cauſe. I conceive it not unfit, that with the beſt of ſpeed, ſome of the chief Secretaries were ſent to the Ambaſſador by way of advice, that they underſtanding a notice of this information amongſt the common people, that they cannot but conceive a juſt feare of uncivill carriage towards his Lordſhip or his followers, if any the leaſt incitement ſhould ariſe; and therefore for quiet of the State, and ſecurity of his p. rſon, they were bound in love to his Lordſhip to erſtrain as well himſelf as followers untill a further courſe be taken by legall examination, where this aſperſion begun, the way they only conceived ſecure to prevent the danger; this feare in likelyhood will be the beſt motive to induce the Ambaſſador to make diſcovery of his intelligence, when it ſhall be required; I conceive it then moſt fit, that the *Prince* and your *Grace* to morrow ſhould complaine of this in *Parliament*, and leaving it ſo to their advice and juſtice, to depart the Houſe; the Lords at the inſtant to crave a conference of ſome ſmall number of the Commons, and ſo conclude of a meſſage to be ſent to the Ambaſſador to require from him the charge and proofs; the perſons to be ſent the two Speakers of the two Houſes, with ſome convenient company of either, to have their Maces and enſigns of office born before them to the Ambaſſadors gate, and

then

then forborne, to shew faire respect to the Ambassadors, then to tell them that a relation being made that day in open *Parliament* of the former information to the King by his Lordship, they were deputed from both Houses, the great Councell of the Kingdom, to the which, by the fundamentall Law of the State, the cheif care of the Kings safety and public quiet is committed, they were no less the high Court of Iustice, or *Supersedeas* to all others, for the examining and correcting all attempts of so high a nature as this, if it carry truth; That they regarded the honor of the State, for the Catholiques, immoderate using of late the Lenitie of Soveraigne *Grace* to the scandall and offence of too many, and this aspersion now newly reflecting upon the *Prince* and others, meeting with the former distast (which all in publique conceive to make a plot to breed a rupture between the King and State, by that party maliciously laid) hath so inflamed and sharpned the minds of most, that by the accesse of people to term and Parl. the City more filled than usuall, and the time it selfe near *May* day (a time by custome apted more to licentious liberty than any other) cannot but breed a just jealousie and feare of some disorder likely to ensue of this information, if it be not aforehand taken up by a faire legal tryall in that High Court: Neither want there fearfull examples in this kind in the Ambassadors

of

of *Genoa* upon a farre lesse ground in the time of *Parliament*, and his house demolished by such a seditious tumult: The *Parliament* therefore, as well to secure his Lordships person, followers and friends from such outrages, to preserve the honor of the State which needs must suffer blemish in such misfortunes, they were sent thither to require a faire discovery of the ground that led his Lordship so to informe the King, that they might so thereupon provide in Iustice and Honor; and that the reverence they bear unto the dignity of his Master, may appeare the more by the mannerly carriage of his tMessage, The two that are never imployed but to the King alone, were at this time sent, and that if by negligence of this faire acceptance, there should happen out any such disaster and danger, the world and they must justly judge as his own fault: If upon the delivery of this message the Ambassador shall tell his charge, and discover his intelligence, then there will be a plain ground for the *Parliament* to proceed in Examination and Iudgment; But if (as I believe) he will refuse it, then is he *Author Scandali* both by the Common and Civill Lawes of this Realm, and the *Parliament* may adjudge it false and untrue, and declare by a public Act, the *Prince* and your *Grace* innocent, as was that of the *Duke* of *Gloucester* 2 *Rich.* 2. and of *Yorke* in *Henry* the sixt his time, then may

her

the *Parliament* joyntly become Petitioners to his Majesty, first to confine his Ambassador to his house, restraining his departure, untill his Majesty be acquainted with his offence, and alwell for security as for further practize to put a guard upon the place, and to make a *Proclamation* that none of the Kings subjects shall repaire to his house without expresse leave; And to send withal a Letter, with all speed, of complaint against him to the King of *Spain*, together with a Declaration under the Seals of all the Nobility and Speaker of the Commons in their names, as was 44 *Hen* 3. to the *Pope* against his Legat, and 28 *Edw.* 1. Requiring such justice to be done in this case, as by the Leagues of Amity, and Law of Nations is usuall, which if the King of *Spaine* refuse, or delay, then it is *Transactio Criminis* upon himselfe, and an absolution of all Amitie and freindly intelligence, and amounts to no lesse than a Warre denounced. Thus have I by your leave, and command, delivered my poor opinion, and ever will be ready to do your *Grace* the best service, when you please to command it.

That

THAT THE KINGS OF ENGLAND Have been pleaſed uſually to conſult with their Peeres in the great Councell, and Commons in Parliament, of Marriage, Peace, and Warre.

Written by Sr. *Robert Cotton*, Knight and Baronet, *Anno* 1621.

LONDON,
Printed in the Yeare
1651.

That the Kings of *England* have been pleased usually to consult with their Peers in the Great COVNCELL, *&c.*

TO search so high as the *Norman* Conquest, it is necessary to lay down the form and government of those times, wherein the state of affairs then lead in another forme of publick Councells; for the people brought under by the Sword of *William*, and his followers to subjected vassallage, could not possesse in such assemblies the right of their former liberties, division and power having mastred them, and none of their old Nobility being left either of credit or fortune, what he retained not in providence as the demesnes of the Crowne, or reserved not in piety for the maintenance of the Church, he parted to those strangers that sailed along with him in the Barke of his adventure, leaving the Natives

William the Conqueror.

Malmsbury.

tives (for the moſt part) as appeareth by his ſurvey in no better condition than Villenage; He moulded their Cuſtomes to the manner of his own Country, and forbore to grant the Lawes of the Holy *Edward* ſo often called for.

Domes-day. Edmerus. Huttingdon.

To ſupply his occaſions of men, mony, or proviſions, he Ordered that all thoſe that enjoyed any fruit of his Conqueſt, ſhould hold their lands proportionably by ſo many Knights fees of the Crowne, and admitted them to infeoffe their followers, with ſuch parts as they pleaſed of their own portions, which to eaſe their charge they did in his and his Sonnes time, by two infeoffments, th'one *de novo*, th'other *de veteri*; This courſe provided him the body of his Warre, the mony and proviſion was by Hydage aſſeſſed on the common people, at the conſent of their Lords, who held in all their Signiories ſuch right of regality, that to their vaſſalls (as *Paris* ſaith) *quot Domini tot Tyranni*, and proved to the King ſo great a curbe and reſtraint of power, that nothing fell into the care of Majeſty after, more than to retrench the force of this Ariſtocracie that was like in time to ſtrangle the Monarchie.

Ex lib. feod. in Scacc.

Hen. 1. Ex lib. pub. in Scacc.

Chron. de Dunſtable. Mat. Paris Benedictus Monachus in vita Hen. 2.

Though others foreſaw the miſcheif betimes, yet none attempted the remedy, untill King *John*, whoſe overhaſty undertakings, brought in thoſe broyls of the Barons Wars.

Gervaſ. Dorch. Roger Wendover. King *John.*

There

There needed not before this care to advise with the Commons in any publick assemblies, when every man in *England* by tenure held himself to his great Lords will, whose presence was ever required in those great Councells; and in whose assent his dependent Tenants consent was ever included.

Before this Kings time then, we seek in vaine for any Councell called, he first as may be gathered (though darkly by the Record) used their Counsells and assents in the sixt year of his Raign. *Claus. 6. Iob. in 3 Dorso.*

Here is the first summons in records to the Peers or Barons *Tractaturi de magnis, et arduis negotiis*, it was about a Warre of defence against the *French*; And that the Commons were admitted at this time may be fitly gathered by this ordinance, *viz. Provisum est assensu Archiepiscoporum, Comitum, Baronum, & omium fidelium nostrorum Angliæ, quod novem militis per Angliam inveniend. decimarum, &c.* and this was directed to all the Sheriffes in *England*, the ancient use in publishing Lawes; From this there is a breach untill the 18th. *Hen.* 3. where the next summons extant is in a plea Rolle of that year, but the ordinances are lost; From hence the Records afford us no light untill the 49 of the same King, where then the forme of summons to Bishops, Lords, Knights & Burgesses, are much in manner though not in matter to those of our times. *Petit. 18. Hen. 3.* *Claus. 49. Hen. 3. in 11. Dors.*

This

This Parliament was called to advise with the King *pro pace assecuranda & firmanda*, they are the words of the Writ, and where advice is required, consultation must needs be admitted.

Edw. 1. To this King succeeded *Edward* his son, a wise, a just, and fortunate Prince, his Raign, and so long to the fourth of his Grandchild, we have no light of public Councells in this kinde, but what we borrow in the Rolls of Summons, wherein the form stood various according to the occasions, untill it grew constant in the form it is now, about the entrance of *Ric.* the 2. The journall Rolls being spoiled, by the injury of times or private ends.

Ex Rot. Parl: in Archivis London.

Claus. 5. Edw. 1. in 12. This King in the 5. of his Raign called a Parliament, and therein advised with his Lords and Commons for suppressing of *Llewellen* Prince of *Wales*, and hearing that the *French* King intended to invade some pieces of his Inheritance in *France*, he summoned a Parliament, *Ad tractand. ordinand. & faciend. cum Prælatis Proceribus & aliis Incolis Regni qualibet hujusmodi periculis & excogitatis malis sit objurand.* Inserting in the Writ that it was *Lex justissima, provida circumspectione stabilita*; That *Quod omnes tangit ab omnibus approbetur.* In 34. *Super ordinatione & stabilimento Regis Scotiæ*, he made the like Convention.

Rot. Parl. Anno 7. Edw. 1.

Claus. 7 Edw. 1. in 3. dors.

Claus. 34 Ed. 1. in dors.

Edw. 2. His Son the second *Edward*, *pro solemnitate Sponsalium & Coronationis*, consulted with

with his people in his first year, in his 6. year, *super diversis negotiis statum regni & expeditionem* Guerræ Scotiæ *specialiter tangentibus*, he assembled the State to advise, the like he did in the eighth.

Claus. 1 *Edw.* 2. *in* 19. *in dorf.* *Claus.* 6 *Ed.* 2. *in* 3. *in dorf.* *Claus.* 8. *in* 3. *in dorf.*

The *French King* having invaded *Gascoine* in the 13 year the Parliament was called, *super arduis negotiis statum Gasconiæ tangentibus.* And in 16 to consult *ad refrænand. Scotorum obstinentiam & militiam.*

Claus. 13 *E.* 2. *in* 13. *in dorf.* *Claus.* 16. *E.* 2. *in* 27. *in dorf.*

Before that *Edward* the 3. in his first year would resolve whether Peace or War with the *Scotish* King, he summoned the Peers and Commons, *super præmissis tractare & consilium impendere*

Edw. 3. *Claus.* 1 *Ed.* 3. *in dorf.*

The Chancellor in *Anno quinto* declareth from the King the cause of that Assembly, And that it was to consult and resolve, whether the King should proceed with *France* for recovery of his Seigniories, by alliance of marriage, or by war? And whether to suppresse the disobedience of the *Irish*, he should passe thither in person or no?

Rot. Parl. 5 *E.* 3.

The year following he re-assembleth his Lords and Commons, and requireth their advice, whether he should undertake the Holy Expedition with the *French* King that year, or no? the Bishops and Proctors of the Clergy would not be present, as forbidden by the Canons such Counsells, the Peeres and Commons consult, applauding the Religious and Princely

Parl. 6 *Ed.* 3.

ly forwardneſs of their Soveraigne to this holy enterprize, but humbly adviſe a forbearance this year for urgent occaſions.

Rot. Parl. 6 Ed. 3. Seſſ. 2. in. 6.

The ſame year, though at another Seſſions, the King demanded the advice of his people, Whether he ſhould paſſe into *France* to an enterview as was deſired for the expediting the treaty of marriage, The Prelates by themſelves, the Earls and Barons by themſelves, and the Knights of Shires by themſelves, conſulted apart, for ſo is the Record; and in th'end reſolved, That to prevent ſome dangers likely to ariſe from the North, it would pleaſe the King to forbear his journey, and to draw towards thoſe parts where the perills were feared, his preſence being the beſt prevention; which advice he followed.

Rot. Parl. 7. Edw. 3.

In the following Parliament at *York*, the King ſheweth how by their former advice he had drawn himſelf towards the North parts, and now again had aſſembled them to adviſe further for his proceedings, to which the Lords and Commons having conſulted apart, pray further time to reſolve, untill a full aſſembly of the State, to which the King granting adjourneth that Seſſions. At the next meeting they are charged upon their Allegiance and Faith, to give the King their beſt advice; the Peers and Commons conſulting apart, deliver their opinions, and ſo the Parliament ended.

Rot. Parl. 7 E. 3. Seſſ. 2. Parl. 7 E. 3. in. 6.

Rot. Parl. 13 E. 3.

In the 13th. year the Grands and Commons

mons are called to consult and advise how the Domestique quiet may be preserved; the Marches of *Scotland* defended, and the Sea secured from forein enemies; the Peers and Commons having apart consulted, the Commons after their desire not to be charged to counsell in things *Des queux ils nount pas cognizance*, answer; That the Guardians of the Shires, assisted by the Knights may effect the first, if pardons of Felony be not granted.

The care of the Marches they humbly leave to the King and his Counsell, and for the safeguard of the Seas, they wish that the Cinque Ports, and Marine townes, discharged for the most part from the maine burthens of the In-land parts, may have that left to their charge and care, and that such as have lands neer the Coasts be commanded to reside on those possessions.

The Parliament is the same year reassembled *Avisamento Prælatorum, procerum, necnon communitatis*, to advise *de expeditione guerræ in partibus transmarinis*, at this Ordinances are made for provision of ships, arraying of men for the Marches, and defence of the Isle of *Jersey*, naming such in the Record, as they conceive fit for the imployment. *Rot. Parl. 13 E. 3. Sess. 2.*

The next year *De la Pool* accompteth in Parliament the expences of the wars, a new aid is granted, and by severall Committees in which divers are named that were no Peers of Parliament, the safeguard of the *Parl. 14 E. 3.*

ſeas, and defence of the borders are conſulted of.

In the 15 year, *De aſſenſu Prælatorum Procerum & aliorum de conſilio*, the Kings paſſage into *France* is reſolved of. *Anno* 17. *Badleſmere*, inſtead of the Councel declareth to the Peers and Commons, That whereas by their aſſents the King had undertaken the wars in *France*, and that by mediation of the Pope a truce was offered, which then their Soveraign forbore to entertain without their well allowance; the Lords conſult apart, and ſo the Commons returning by Sir *William Truſſell* an anſwer, their advice and deſire is to compoſe the Quarrel, approve the Truce, and the Popes mediation.

Rot. Parl. 18 *E.* 3. The Popes undertaking proving fruitleſs, and delayes to the *French* advantage, who in the mean ſpace allied with *Scotland* and others, practized to root out the *Engliſh* Nation in *France*, This King again aſſembled the year following, in which the Peers and Commons after many dayes meditation, reſolve to end it either by Battel or Peace, and no more to truſt upon the mediation or meſſage of his Holineſſe.

Rot. Parl. 21 *E.* 3 In the 21 year, the chief Iuſtice *Thorpe* declaring to the Peers and Commons that the *French* Wars began by their advice firſt, the Truce after by their aſſents accepted, and now ended, the Kings pleaſure was to have their Counſels in the proſecution, the Commons being commanded,

Que

Que ils se deveroyent trait ensemble & se quils ensenteroient monstrer au Roy & aux gravitur de son consilio, Who after four dayes consulting humbly desire the King to be advised by his Lords and others, more experienced than themselves in such affairs.

To advise the King the best for his *French* imployments a Parliament was summoned *Anno* 25. Herein the King for a more quick dispatch willeth the Commons to elect 24. or 30. of their house to consult with the Lords, these to relate to their fellows, and the conclusion generall by the Lords to the King. *Parl.* 25 *E.* 3.

In the 27 a Great Councell is assembled, many of the lay Peers, few of the Clergy, and of theShires and Burroughs but one a peece. *Parl.* 27 *E.* 3.

This was for the prosecution of the *French* wars, when honorable peace could not be gotten; but the yeare following a Truce offered, the King forbore to entertain, untill he had the consent of the Peers and Commons, which they in Parliament accorded unto before the Popes Notary, by publick Instrument. *Parl.* 27 *E.* 3.

The dallying of the *French* King in conclusion of peace, and the falling off of the Duke of *Britany*, having wrought his end with *France* by reputation of the *English* succour, is the year following declared in Parliament, and their advice and aid required for the Kings proceeding. *Parl.* 29 *E.* 3.

Parl. 36 *E* 3. In the 36. year he calleth a Parliament to consult whether war or peace by *David* King of *Scots* then offered, should be accepted?

Parl. 40 *E.*3. King *John.* In the 40 the Pope demanding the tribute of King *John*, the Parliament assembled, where after consultation apart, the Prelats, Lords, and Commons advise the denyall, although it be by the dint of Sword.

Parl 43 *E.*3. In 43. The King declares to the Peers and Commons, that the French against the articles of the Truce, refused payment of the moneys, and delivery of the Townes, summoning *La Brett*, and others the Kings Subjects in *Gascony* to make at *Paris* their appeals, and had forraged his of *Bontion*, requiring, whether on their breach he might not again resume the stile and arms of *France*.

The Lords and Commons had apart consulted, they advise the King to both, which he approving altered the inscription and figure of his Seale.

*Parl.*45 *E.*3. Two years after it was declared to the Peers and Commons, that by their advice he had againe resumed the stile and quarrell of *France*, and therefore called their advice for the defence of the realm against the *French*, securing of the Seas, and pursuing of the Warre, of which they consult, and resolve to give the King an aid; the like of Councell and supply was the year succeeding.

Parl 46 *E.*3.

In

In the 50 a Parliament to the purposes of the other two was summoned; and the yeare following the King in Parliament declaring how the *French* combined underhand against him with *Spaine* and *Scotland*, required their advice, how Peace at home, the Territories abroad, Security of the Sea, and charge of the Warre might be maintained. I have the longer insisted in observing the carriage of these times, so good and glorious, after ages having not left the Iournall entries of Parliament so full, which with a lighter hand I will passe through. *Par. 50 Ed. 3.*

Richard his Grand child succeeded to the Crowne, and troubles, having nothing worthy his great fortunes, but his great birth; the first of his Raign he pursued the Steps of his wise Grand-father, advising with Peers and Commons how best to resist his Enemies, that had lately wronged many of his Subjects upon the Sea coasts. *Rich. 2.* *Par. 1 Rich. 2. in 5 & 6.*

In the second yeare he againe consulted with his people, how to withstand the *Scots*, who then had combined with the *French* to break the Truce. *Parl. 1. Rich. 2. in 7.*

In the third he called the advice of Parliament, how to maintaine his regality, impaired by the Popes provision, how to resist *Spaine*, *France*, and *Scotland*, that had raised Warres against him, how to suppresse his Rebells in *Guyen* and *Ireland*, and how to defend the Seas. *Parl. 3 Rich. 2. in 4 & 5.*

The

Parl. 4 Rich. 2. in 2 & 3.

The like in the fourth year following at *Winsor*; the year succeeding at a great Councell, the King having proposed a voyage Royall into *France*, now called the Parliament to determine further of it, and it is worthy observation, for the most before any proposition of Warre or Peace were vented to the Commons, a debate thereof proceeded in the great Councell to stay it fitter to Popular advise.

Parl. 5 Rich. 2. in 3.

Parl. 5. Sess. 2.

The quarrell of *Spaine* continuing, the Duke of *Lancaster* offered a voyage against them, so that the State would lend him money, after consultation they granted aid, but not to bind them to any continuance of Warres with *Spaine*.

Parl. 6 Rich. 2.

In the sixth the Parliament was called, to consult about defence of the borders, the Kings possessions beyond Sea, *Ireland* and *Gascoyne*, his subject in *Portugall*, and safe keeping of the Seas; and whether the King should proceed by Treaty of Alliance, or the Duke of *Lancaster* by force, for the Conquest of *Portugall*, the Lords approve the Dukes intention for *Portugall*, and the Commons advise, that *Thomas* Bishop of *Norwich*, having the Popes *Croiceris* should invade *France*.

Parl. 6 Sess. 2.

The same yeare the State was re-assembled to consult, whether the King should go in person to rescue *Gaunt*, or send his Army

Army ; the Commons after two dayes debate crave a conference with the Lords, the effect is not entred in the Roll, only they bid Sir *Thomas Puckering* their Speaker protest, that Counsells for Warre did aptly belong to the King and his Lords ; yet since the Commons were commanded to give their advice, they humbly wished a voyage Royall by the King ; if not, that the Bishop of *Norwich* ought with the advantage of the Popes *Croiçeris* be used in that service, who accepted the Charge with ill success ; he further for the Commons prayed, that the Kings Vnkle should not be spared out of the Realme, before some peace be setled with the *Scots*, and that the Lord *de la Sparre* sent with Propositions from *Spaine*, may first bee heard.

The Chancellor in the seventh year in the name of the King willeth the Lords apart, and so the Commons, to consult whether Peace of Warre with *Scotland*, or whether to resist or assaile the Kings adventure with *Spaine*, *France*, or *Flanders*. *Parl. 7 Rich. 2.*

Their opinion is not entred in the Rolls, (an omission usuall by the Clarkes neglect) only their Petition is recorded, that the Bishop of *Norwich* may accompt in Parliament the expence of the monies, and be punished for his faults in the service he undertook

undertooke, both which are Granted.

Parl 7. Sess. 2. At the next Sessions the same yeare the Commons are willed to advise upon view of Articles of Peace with the *French*, whether Warre, or such a Vnity should be accepted; They modestly excused themselves as to weak to consult in such weighty affairs; But being charged againe as they did tender the honour, and right of the King, they make this answer, *Quils intendent que ancunes sermœs & terres que mesme lour Leeige auroit oie pur cest accord in Guien si serront tenus dobt Roy Francois par homage et service mars ne persont uny que lour dit Leige voiroit assenter trope legierement de temer dicens Francois pertiel service la villa de Callis & aultres terres conquises des francois per lespreneve verroit la comen ense faest fait si autrement lour perroit bien faire*, giving their opinions rather for peace than Warre; Peace with France not succeeding the eighth yeare, *Parl. 8 Rich. 2.* the body of the state was willed to advise, whether the King in his own person, or by sending of forces against the *French*, *Spaine*, *Flanders*, and *Scotland*, should proceed.

Claus. 9 Rich. 2. This King having assembled at *Oxon* his great Counsell to advise whether he should pass the Seas or no, with an Army Royall, and they not daring to assent without greater Councell,

Parl. 10. Rich. 2 A Parliament the tenth year to have the

the advice of the Commons, aſwell as of the Lords was called, and how the Realme ſhould be governed in their Soveraign his abſence.

Parl.13.Ric.2.

The truce with *France* was now expired, the Parliament was called in the 13th. to adviſe upon what conditions it ſhould be renewed, or otherwiſe how the charge of the War ſhould be ſuſteined; at this aſſembly, and by conſent of all, the Duke of *Lancaſter* is created Duke of *Aquitaine*, the Statute of proviſions now paſt, the Commons a party in the Letter to the Pope.

Rot.Clauſ.13. Ric.2

Parl.14 Ric.2.

The year ſucceeding a Parliament is called, for the King would have advice with the Lords and Commons for the Warre with *Scotland*, and would not without their Counſells conclude a ſinall peace with *France*. The like aſſembly for the ſame cauſes was the year enſuing, the Commons intereſting the King to uſe a moderation in the Law of proviſions, to pleaſe at this time their holy Father, ſo that the Statute upon their diſlike may again be executed; and that to negotiate the peace with *France* the Duke of *Aquitaine* may rather than an other be imployed.

Parl.17.Ric. 2.

To conſult of the Treaty with *France* for Peace, the King in the ſeventeenth calleth a Parliament, (the anſwer of the Lords is left unentred in the roll) the Commons upon their faith and allegiance charged

ged, advised that with good moderation homage may be made, for *Guien* an appenage of the French *Croine* so it trench not to involve the other pieces of the English Conquest, their answer is large, modest and worthy to be marked.

Henry 4. Now succeedeth a man, that first studied a popular party, as needing all to support his titles.

He in the fifth year calleth a Parliament to represse the malice of the Duke of *Orleance*, and to advise of the Warres in *Ireland* and *Scotland*, (neither Counsells or supplies are entred in the Roll) and to resist an invasion intended by *France* and *Brittanie*, he assembleth the State againe, the like was the second year following for *France*.

Parl. 5. Hen. 4. Parl. 6. Hen. 4 Parl. 7 & 8. Hen. 4. in 19 & 20.

Claus. 7 Hen. 4 In this the Commons conferre with, for guard of the Sea, and make many Ordinances, to which the King assenteth, the peace with the Merchants of *Bruce* and *Foins* is abated, and a Proclamation published, as they resolved; by the Speaker the Commons complaine of *96* pieces of importance lost in *Guien* the yeare before: need of the defence of the borders, and Sea coasts, to suppresse the Rebellion in *Wales*, and disloyalty of the Earl of *Northumberland*; they humbly desire, that the Prince may be dispatched into those parts with speed, and that the Castle of *Manlion* the key of the three realms might be left to the care of the English, and

In 33

In 57.

In 59.

and not to *Charls* of *Navarre* a stranger, and to have a vigilant eye of the Scotish prisoners.

In the tenth the Parliament is commanded to give their advice about the Truce with *Scotland*, and preparation against the malice of the *French*.

His Son the wise and happy undertaker, advis'd with the Parliament in the first year how to cherish his Allies, and restrain his Enemies; for this there was a secret Committee of the Commons appointed to conferre with the Lords, the matter being entred into a schedule, touching *Ireland*, *Wales*, *Scotland*, *Callis*, *Guien*, Shipping, Guard of the Seas, and Warre, provision to repulse the Enemies. *Hen.5.* *Parl.1 Hen.5. In 2.* *In 4.*

In the second he openeth to the Parliament his title to *France*, a quarrell he would prosecute to death, if they allowed and ayded, death is in his Assembly enacted to all that breake the Truce, or the Kings safe conduct. *Parl.2 Hen.5.*

The yeare following peace being offered by the *French* King, and the King of the Romans arrived to effect the worke, the King refuseth any conclusion untill he had thereunto advice and assent of his Lords and Commons, for which occasion the Chancellor declareth that assembly. *Parl.3 Hen.5.*

In the fourth and fifth, no Peace being concluded with *France*, he calleth the State *Parl.4 & 5 Hen.5.*

State together to consult about the Warre, concluding a Treaty of amitie with *Sigismund* King of the *Romans* by allowance of the 3 Estates, and entred Articles into the Iournall Rolls.

Parl.5 Hen.5. The same year, by the Duke of *Bedford* in the Kings absence a Parliament was called, to the former purposes, as appeareth by the Summons, though in the Roll omitted. The like in the seventh.

Parl.7 Hen.5.

The Treaty with *France* is by the Prelates, Nobles, and Commons of the Kingdom perused and ratified in the 11th. of his Raign.

Henry 6.
Rot.Parl. 2 Hen.6

His Sonne more holy than happy succeeded, adviseth him the second year with the Lords and Commons, for the well keeping the Peace with *France*; consulteth with them about the delivery of the Scottish King, and the conclusion of it is confirmed by common assent.

And in the third year they are called to advise and consent to a new Article in the League with *Scotland*, for change of hostages.

Rot.Parl.3 H.6

And in the 9th. conclude certaine persons by name to treat a Peace with the *Dolphin* of *France*.

Rot.Parl.9 H.6

The Treaty at *Arras*, whether the Pope had sent as mediators two Cardinalls, not succeeding,

The King in Parliament *Anno* 14. sheweth

sheweth he must either lose his title, stile and Kingdome of *France*, or else defend it by force, the best means for the prevention thereof he willeth them to advise him. *Rot. Parl. 14 Hen. 6.*

He summoneth againe the next year the State, to consult how the Realme might be best defended, and the Sea safe kept against his Enemies. *Rot. Parl. 15 Hen. 6.*

In the 20 the Commons exhibite a Bill for the Guard of the Sea, ascertain the number of ships, assesse wages, and dispose prizes of any fortune, to which the King accordeth, and that the *Genoways* may be declared enemies for assisting the Turks in the spoil of the *Rhode* Knights, and that the privileges of the *Pruce* and *Hans* Townes Merchants may be suspended, till compensation be made to the English for the wrongs they have done them, to which the King in part accordeth. *Parl. 20 Hen. 6.*

The King by the Chancellor declareth in Parliament *Anno* 23. That the marriage with *Margaret* the King of *Sicills* Daughter was contracted for enducing the peace made with *France*, against which the Lords, as not by their advice effected, make Protestation, and enter it on the Roll. *Parl. 23 Hen. 6.*

In the 25. the King intended to passe in Person into *France*, and there to treat a Peace with the King, adviseth with the Lords and Commons in Parliament, and Letters of Mart are granted against the *Rot. Parl. 25 Hen. 6. in 3.*

N. 6.

Britains

Frittains, for ſpoile done to the *Engliſh* Merchants.

Parl. 27 H. 6. The Lord *Haſtings*, and Abbot of *Gloceſter* declare in Parliament *Anno* 27. the preparation of the *French*, the breach by them of the peace, the weak defence of *Normandy*, and the expiration ſhortly of the truce, requiring ſpeedy advice and remedy.

Parl. 29 H. 6. In the 29. It was enjoined by Parliament to provide for defence of the ſea and land againſt the *French*.

Parl. 33 H. 6. It was commanded by the King to the States aſſembled, *Anno* 33. to adviſe for well ordering of his houſe, payment of the Souldiers at *Callis*, guard of the Sea, raiſing of the ſiege of *Barwicke* made by the *Scots* againſt the truce, diſpoiling of the number of 13000 Souldiers, arayed the laſt Parliament, according of differences amongſt the Lords, reſtraining tranſportation of Gold and ſilver, and acquitting the diſorders in *Wales*; of all which, Committees are appointed to frame Bills.

Edward 4. Parl. 7. E. 4. *Edward* the fourth by the Chancellor declareth in his ſeventh year to the Lords and Commons, that having made peace with *Scotland*, entred League with *Spaine* and *Denmarke*, contracted with *Burgundy* and *Brittany* for their aid in the recovery of his right in *France*, he had now called them to give their Counſells in proceeding, which Charge in a ſecond Seſſions was

was again proposed unto them.

The like was to another Parliament in his twelfth year. *Parl. 12 E.4.*

After this time their journalls of Parliament have not been well preserved, or not carefully entred, for I can find of this nature no Record, untill the first of *Hen.* the 7. wherein the Commons by *Thomas Lovell* their Speaker, petition the King to take to Wife *Elizabeth* daughter to *Edw.* the 4. to which the King at their request agreeth. *Henry 7. Rot. Parl. 1 Hen. 7.*

The next is the 3. of *Hen.* the 8. in which from the King the Chancellor declareth to the three Estates the cause of that Assembly; The first to devise a course to resist the Invasion of the *Scots*, next how to acquit the quarrell between the King of *Castile*, and the Duke of *Geldres* his Allie; lastly for assisting the Pope against *Lewis* King of *France*, whose Bull expressing the injuries done the Sea Apostolick, was read by the Master of the Rolls in open Parliament; The Chancellor, the Treasorer, and other Lords sent down to the Commons to confer with them. *Henry 8. Parl. 3 H. 8.*

The last in the 32. of the same year, where the Chancellor remembring the many troubles the State had undergone, in doubtfull titles of Succession, declareth, that although the Convocation had judged voyd the marriage of *Anne* *Rot. Parl. 32 Hen. 8.* *Ex instrumen. Orig.*

of *Cleve*, yet the King would not proceed, without the Counſell of the three Eſtates: The two Archbiſhops are ſent to the Commons with the Sentence ſealed, which read, and there diſcuſſed, they paſſe a Bill againſt the Marriage.

In all theſe paſſages of publique Councells, wherein I have been much aſſiſted by the painfull labour of Mr. *Elſings*, Clerk of the Parliament, and ſtill obſerve, that the Soveraign Lord, either in beſt advice, or in moſt neceſſities, would entertaine the Commons with the weightieſt cauſes, either forrain or domeſtique, to apt and binde them ſo to readineſſe of charge, and they as warily avoyding it to eſchew expence; their modeſt anſwers may be a rule for ignorant liberty to forme their duties, and humbly to entertain ſuch weighty Counſells at their Soveraigns pleaſure, and not to the wilde fancy of any factious Spirit. I will adde one forrain example to ſhew what uſe have beene formerly made by pretending Marriages, and of Parliaments to diſſolve them, their firſt end ſerved.

Maximilian the Emperour, and *Ferdinand* of *Spaine*, the one to ſecure his poſſeſſions in *Italy*, the other to gaine the Kingdome of *Navarre*, (to both which

which the *French* K. stood in the way) projected a Marriage of *Charls* their Grandchild, with *Mary* the K. of *Englands* sister, it was embraced, & a Book published of the benefits likely to ensue the christian world by this match, upon this Ground, *Ferdinando* beginneth to incite *H.* the 8. to war with *France*, presents him with succours, and designes him *Guien* to be the marke; and *Dorset* sent with men and munition to joyne with the *Spanish* forces then on the Borders of *Navarre*, the noise is they came to assist *Ferdinand* in the conquest of that Kingdome, which though false, gained such reputation, that *Albred* was disheartned, and *Ferdinand* possessed himselfe of that his Successors since retained, his end served, the English Army weak and weather-beaten, are returned fruitlesse.

Tractat. matrimonial. 1510.

Ex literis orig. legator.

Maximilian then allureth the young and active King to begin with *France* on the other side, *Turwin* and *Turney* is now the object, whether *Henry* goeth with victory, but better advised (with that pittance) makes an end by peace with *France*, whose aim and heart was set on *Millain*

Ex tract. Hen. 8. & Maximilian. 1511.

A new bait the old Emperour findeth out to catch the Ambitious young man, he would needs resigne unto him the Empire, too heavy for his age to beare: The Cardinall *Sedunensis* is

Ex tract. origi.

ſent over to ſigne the Agreement, which he did; and *France* muſt now again be made an Enemy: To prevent this danger *Francis* releaſeth his Title to *Naples*, and offereth *Laogitia* his Daughter to *Maximilians* Granchild *Charles*, at *Noyon* this is acted in the dark, and at *Arno* the *French* Commiſſioners came up the back ſtaires with 60000 Florins, and they engroſſed Covenants, when the abuſed King of *Englands* Ambaſſador *Pace*, went downe the other; the good Cardinall returneth home, meeteth by the way this foule play of his Maſter, and writ to the King of *England*, not in excuſe, but in complaint, *Contra perfidiam Principum*, an honeſt Letter. *Ferdinand* and *Maximilian* dead, *Francis* and *Charls* are Competitors for the Empire. *Hen.* the 8. is courted for his helpe by both; the one with the tye of Alliance (for the Infant *Dolphin* had affyed *Hen.* the 8. Daughter) the other with the like, and Daughter, he will make his Daughter a Queene *in præſente*, which the *Dolphin* cannot doe, and by his favour an Empreſſe.

Ex tract. orig.

Ex literis Ric. Pace Legat Reg. Angliæ.

Ex literis Car. Sedunenſis.

Ex literis Carol. Rg. Hiſpa.

To further *France* was but to winne Ambition to prey upon all his Neighbours, the Engliſh King is won, and winneth for *Spain* the Imperiall wreath, which *Charles* in two Leters I have of his owne hand then thankfully confeſſed. From

Ex literis Car. Imperat. original.

Extract. mand. 1522.

Ex inſtru. orig. jurament.

From *Aquisgrave* he commeth Crowned in haste to *England*, weddeth at *Windsor* the Kings Daughter, contracteth to joyne in an invasion of *France*, to divide it with his Father in Law, by the River of *Rodon*, and sweareth at the Altar in *Pauls* to keep faith in all.

Ex literis Richardi Pace, & Johannis Russell.

Bourbon is wrought from *France*, and entreth *Province* with an Army, paid with King *Henries* money; *Suffolke* passeth with the English Forces by *Picardie*: But *Cherles* the Emperour, who should have entred *Guyen* faileth, drawing away *Burbon* from a streight siege of *Marseilles*, to interrupt *Francis* then entred *Italie*, and so the enterprize of *France* is defeated, the French King is at *Pavie* taken Prisoner by *Pescaro*, led to *Grone*, hurried into *Spain* by the Emperours Galleys, and Forced at *Madrid* to a hard bargaine, without privity of *Hen.* the 8. or provision of him, who had beene at the greater charge of that Warre. Now the Emperour effecteth that Monarchy that hath ever since (as some say) infected the *Austrian* Family.

Ex tractt. Madristensi. §26. Ex Rot. Com. Russell & Pace

Rome, the fatall old Seate of Government, must be the Seate of his Empire: *Burbon*, and after *Moncado* are directed to surprize it. *Angelo* the observant Fryer is sent before the Pope,

Ex instru. orig. Carol. 5.

Ex instru. H.8. Bryano & Gardinen.

consigned by the Emperours Election, who meant (as his own instructions warrant) to restore that right againe to the Imperiall Throne.

Ex literis Cuthb. Tunstall Epis. Lon. Legat. Hen. 8. in Hispan.
Ex protestat. orig. Toledonensi Parl.

Charls will follow him from *Barcellona* with an Army; but before, he must call a Parliament at *Toledo*, whether by election or affection, I dare not divine, that Assembly maketh Protestation against their Masters Marriage with *England*, and assigne him *Isabella* of *Portugall* for a wife, the Instruments are sent signed by the Imperiall Notarie to *Henry* the 8th. And *Charles* bemoneth the streight he is forced into by them, but before all this he had wrought from *Rome*, a Dispensation for his former out-hand Marriage; sending not long after *Gonzado Ferdinando* his Chaplaine, to invite the EARLE of *DESMOND* to rebell in *Ireland*.

Ex literis Car. Wolsey & Greg. Lusathis.
Ex Instru. Signat. Ch. Imp. Gonzado Ferdinand. Capel. suo dat. 24. Feb
Ex lib. N. N. N. Dom. Car.

And to invite *JAMES* the First, by promise of a Marriage to *CHRISTIAN* of *DENMARKS* Daughter, his Neece; to enter the *English* Borders, to busie the *English* King, for asking a strict acompt of that indignity. *Henry* the 8th. with Providence and good successe overwrought these dangers, and by the League of *Italy* he forced him to moderate Conditions at the Treaty of *Cambray*,

Ex literis intercept. a Com. Northumb. Custod. March. Scotiæ.
Ex tract. orig. in Arch. west. Ex tract. Cambrens.
1529.

bray. 1529. He being made *Caput fœderis* against the Emperour.

I may end your Honours trouble with this one Example, and with humble prayers, That the Catholique may have so much of Princely sincerity, as not to intend the like, or my good gracious Master a jealous vigilancy to prevent it, if it should, *&c.*

THAT THE SOVERAIGNES PERSON is Required in the Great COVNCELLS, OR ASSEMBLIES OF THE STATE,

Aſwell at the Conſultations as at the Concluſions.

Written by Sir *Robert Cotton*, Knight and Baronet.

LONDON,
Printed in the year 1651.

THE TRUE
SOVEREIGNTIES
OF
PERSON
AND
COUNCILS,
OR
ASSEMBLIES
OF THE
STATE.

A Vindication of Conciliarism as the Constitution.

Written by the Author of the "Essay on Ecclesiastical Sovereignty."

LONDON:
Printed in the year 1871.

THAT THE SOVERAIGNS PERSON is Required in the Great COVNCELLS, OR ASSEMBLIES OF THE STATE, &c.

Ince of these Assemblies few Diaries, or exact Iournall Books are remaining, and those but of late, and negligently entred, the Acts, and Ordinances only reported to Posterity are the Rolls, this question though clear in generall reason, and conveniency, must be wrought for the particular, out of such incident proofs, as the Monument of Story, and records by pieces leave us. And to deduce it the clearer downe, some essen-

essenticall circumstances of name, time, place, occasion, and persons, must be in a generall shortly touched, before the force of particular proofs be laid downe. This Noble body of the State, now called the houses in Parliament, is known in severall ages, by severall names *Consilia* the Counsells in the old times, after *Magnum*, *Commune*, and *Generale*, *Consilium*, *Curia Magna*, *capitalis*, and *Curia Regis*; sometimes *Generale Placitum*, and sometimes *Synodi* and *Synodalia decreta*, although aswell the causes of the Common-wealth as Church were there decided. The name of Parliament, except in the Abbots Chapters, not ever heard of untill the raigne of King *John*, and then but rarely. At the Kings Court were these Conventions usually, and the Presence, Privy Chamber, or other room convenient, for the King in former times as now then used; for what is the present House of Lords, but so, as at this time, and was before the fyring of the Pallace at *Westminster*, about the seventeenth of *Henry* the eighth, who then and there recided.

Ex Consiliis Reg. Saxon. Cantuar. Glanvil. liber Ely.

Leges Ethelredi. Ingulphus. Croylandensis. Registra Monaster.

Palatium Regale. Westm.

Improbable it is to believe the King was excluded his own Privie Chamber, and unmannerly for guests to barre him the company, who gave to them their entertainement. It was at first as now *Edicto Principis*, at the Kings pleasure. Towards the end of the *Saxons*, and in the first

Registr. Eliensis.

first time of the *Norman* Kings, it stood in *Custome-Grace*, to *Easter*, *Whitsontide*, and *Christmas* fixed. The Bishops, Earls, and Lords, *Ex more*, then Assembled (so are the frequent words in all the Annalls) the King of course then revested with his imperiall Crowne by the Bishops and Peres assembling, in recognition of their pre-obliged faith and present service, untill the unsafe time of King *Iohn*, by over potent and popular Lords, gave discontinuance to this constant grace of Kings, and then it returned to the uncertaine pleasure of the Soveraigns summons. The causes then as now of such Assemblies, were provisions for the support of the State in Men and Money, well ordering of the Church and Common wealth, and determining of such causes, which ordinary Courts *nesciebant judicare* (as *Glanvill* the grand judge under *Henry* the second saith) where the presence of the King was still required, it being otherwise absurd to make the King assentor to the Iudgments of Parliament, and afford him no part in the consultation. The necessity thereof is well and fully deduced unto us in a reverent monument not farre from that grave mans time in these words, *Rex tenetur omni modo personaliter interesse Parliamento, nisi per Corporalem ægritudinem detineatur.* Then to acquaint the Parliament, of such occasion of either house, *Causa est quod solebat*

Annales Monasteriorum. Liber de Bello.

Regist. de Wig.

Johannes Eversden. Mathew Paris. Hoveden.

Bracton. Glanvill. Fleta.

Modus tenendi Parliament.

bat Clamor & Murmur esse pro absentia Regis, quia res damnosa & periculosa est toto Communitati Parliamenti & Regni cum Rex à Parliamento absens fuerit, Nec se absentare debet, nec potest nisi duntaxat in Causa supradicta. By this appeareth the desire of the State to have the Kings presence in these great Councels by expresse necessity. I will now endeavour to lead the practise of it from the darke and eldest times to these no lesse neglected of ours.

Ex Registris Concil. Cantuariæ.
Ex Concilio mutbredi Regist.

From the yeare 720. to neere 900. during all the *Heptarchy* in all the Councels remaining composed *Ex Episcopis, Abbatibus, Ducibus, satrapis, & omni dignitate optimatibus Ecclesiasticis scilicet & secularibus personis pro utilitate Ecclesiæ, et stabilitate regni pertractand.* Seven of them are *Rege præcedente* and but one by deputy; and incongruous it were and almost non-sence, to bar his presence that is president of such an Assembly.

Ex Synodis & legibus Alfredi Ethelredi, Edgari.
Ex Registr. Elien.
Ex Registr. Abigtonensi.
Chronicon de waverley.
Gesta Sancti Edwardi Galice.

The *Saxon* Monarchy under *Alfred, Ethelred*, and *Edgar* in their Synods or *Placita generalia* went in the same practise and since. Thus *Ethelwalde* appealed against Earl *Leofricke*. From the County and *generale Placitum* before King *Ethelred* and *Edgira* the Queene, against Earl *Goda* to *Eldred* the King at *London*, *Congregatis Principibus & sapientibus Angliæ.* In the yeare 1502. under *Edward*

ward the Confessor *Statutum est placitum magnum extra Londinum quod Normanni ex Francorum consuetud. Parliamentum appellant* where the King and all his Barons appealed *Goodwin* for his Brother *Alureds* death, the Earle denyed it, and the King replyed thus, My Lords, you that are my liege men Earls and Barons of the Land here Assembled together have heard my Appeale and his Answer, unto you be it left to do right betwixt us.

Alured. Rivalensis, vita Edwardi Confessoris.

At the great Councell at *Westminster* 1072. in *Easter* weeke, the cause of the two Archbishops *Lanfranke* and *Thomas*, *ventilata fuit, in præsentia Regis Willielm.* And after at *Winsor*, *finem accepit in præsentia Regis.* At the same feast in the yeare 1081. (the usuall time of such Assemblies) the King, the Archbishops, Bishops, Abbots, Earls, and chiefe Nobility of the Kingdom present (for so are the words of the Records) the cause between *Arsast* Bishop of *Norway*, and *Baldwyne* Abbot of *Bury* was also argued, *Et ventilata in publica jubet Rex teneri Judicium Causis auditis Amborum.*

Regist. Cantuarien.

Regist. Sancti Edmundi.

The diligence of his Sonne the Learned *Henry* the first in executing of this part of his kingly function is commended to posterity, by *Walter Mape*, a learned man, trained up, and in favour with *Henry* the second, in these words, *Omnia Regali*

Walterus Mape de nugis curialium.

Regali more moderamine faciebat, neminem volebat agere justitia vel pace. Constituerat autem ad tranquillitatem omnium ut diebus vacationis, vel in domo magna subsidio copiam sui faceret. usque ad horam sextam, (which was till twelve as we now accompt) *secum habens Comites, Baronet, Proceres, & vavasores*, to heare and determine causes, whereby he attained the surname of *Leo Iustitiæ* in all stories, and so out-went in quiet guidance of the State his best progenitors. The next of his name that succeeded is remembred every where for his debates and his disputes he had in person with *Thomas* the Archbishop, and others of his part, at the great councells both at *London*, *Clarendon*, and *Northampton*, for redresse of the many complaints of the Commons, against the outrages and extortions of the Clergy; one thousand five hundred and fifty seven, *Die Penticostis apud sanctum Edmundum*, the same King *Diademate Insignitus*, with the Bishops, Abbots, Earles, and Barons of the Kingdome, sate dayly himselfe and heard all the debates, concerning the Liberties and Charters of *Battle Abby*. The interlocutory Speeches as well of the King, as Lords and parties are at full related in a Register of that Church.

Hen. Huntingdon. Malmsbury.

Vita Tho. Cantuar. per Fitz-Stephanum. Gesta Hen. 2. Benedicto Abb. Authore.

Regist. Monasterii de Bello.

The sute between the Church of *Lincolne* and Saint *Albanes*, *in præsentia Regis*

Regist. Lincoln.

Regis Henry Archepiscop. & Episcop. omnium Angliæ, & Comitum & Baronum Regni, was at *Westminster* debated and ended: And had alone of memory and truth been a protector of the publique Records of the State, as awe of the Clergies censure was a guard to theirs, in tempestuous times, we had not been now left to the only friendship of Monkes diligence; for example in this kind. At *Lincolne* the Archbishops, some Bishops, but all the Earles and Barons of the Realme, *una Cum Rege Iohanne Congregati ad colloquium de concordia Regis Scotiæ*, saith the Register of that Church.

Liber Bartoniens. Monasterii.

This use under King *Henry* the third, needeth on further proofe, than the Writ of summons (then framed) expressing that Kings mind and practise; It is *Nobiscum & Prælatis & Magnatibus nostris quos vocari fecimus super præmissis tractare & Consilium impendere*, which word *Nobiscum* implieth plainely the Kings presence; what the succeeding practise was, from the fifteenth yeare of the second *Edward*, the proper Records of this inquiry (the Iournall Books being lost) I am enforced to draw from out the Rolls of Acts, wherein sometimes by chance they are remembred. *Edward* the second was present in Parliament in the fifteenth yeare of his Raigne at the complaint against

Rot. Claus. Anno 59 H. 3.

Rot. Parl. 15. Edw. 2.

the *Spencers*, and at the second Parliament that year, for the repeale of that banishment.

Rot. Parl. 4. Edw. 3. In the fourth of *Edward* the third, the King was present at the accusation of *Roger Mortimer*, but not at the Tryall.

Rot. Parl. Anno 5 Edw. 3. And the next year in the treaty of the French affaires.

In the sixth yeare *Intererat Rex in Causa Iohannis de Gray & Willielmi de Zous.* The same yeare the second day in Parliament, the King was present at the debate about his Voyage into *Scotland.*

Rot. Parl. Anno 15 Edw. 3. In the fifteenth yeare the King in the Painted Chamber sitting with the Lords in consultation, the Archbishop after pardon prayed, that for better clearing himselfe, he might be tryed in full Parliament by his Peers; which was granted.

Rot. Parl. Anno 17 Edw. 3. In the seventeenth in *Camera Alba*, now the Court of requests, *Rex cum magnatibus conveniunt Communes super negtiis Regni*

Chronicon Henrici Knighton. In the tenth of *Richard* the second, the King departed from the Parliament in some discontent, when after some time, Lords are sent to pray his presence, and informe his Majesty that if he forbeare his presence amongst them fourty dayes, that then *Ex antiquo Statuto*, they may returne *absque domigerio*

migerio Regis, to their ſeverall homes.

Henry the fourth began his firſt Parliament the firſt of *November*, and was the twenty ſeventh of the ſame moneth at a debate about the Duke of *Brittany*, the thirtieth day the Cauſe of the Archbiſhop of *Canterbury* was before him propoſed only. *Rot. Parl. Anno 1 Hen. 4.*

The third of November he was at the debate whether the Commons had right of Iudicature yea or noe. *Rot. Parl. Anno 2 Hen. 4.*

On the tenth he was with the Lords in their conſultation about the expedition againſt the *Scots*; the creation of the Duke of *Lancaſter*, and prohibition of a new ſect for entring his Kingdom. Some Ordinances were at this time conſulted of before him about the ſtaple, and the ſentence againſt *Haxey* after diſpute revoked. *Rot. Parl. 10 Hen. 4.*

This King began his ſecond Parliament, the twentieth of Ianuary, and on the ninth of February was preſent to make agreement betwixt the Biſhop of *Norwich*; and *Thomas* of *Erpingham*. *Anno 2 Hen. 4. Rot. Parl.*

On the twentieth day of the ſame moneth he was preſent at Counſell for repreſſing the *Welch* Rebells; for revocation of ſtipends, and concerning the Priors Aliens.

On the 26. they adviſe before the King of the *Ciſtertians* order.

On the second of *March* of the Statute of Provisions the Keeper of the privie Seale, of relieving the two Vniversities.

Rot. Parl. Anno 4 Hen. 4. And on the ninth of *March*, they mediate before the King a reconciliation betwixt the Earl of *Rutland* and the Lord *Fitzwater*.

Rot. Parl. Anno 5 Hen. 4. He also began a Parliament in the fifth yeare upon the fifteenth of *January*, and on the twentieth they advise before the King of guarding the Seas, and the *Welsh* rebellion.

On the eighth of *February* the Earl of *Northumberland* is charged before the King, and in his presence, and by his permission divers of whome he knew no harme, were removed from the Court.

The next day at the Petition of the Commons, he took upon him to reconcile the Earles of *Northumberland* and *Westmerland*. And on the two and twentieth of *February* of the Earls of *Northumberland* and *Dunbarre*.

Rot. Parl. Anno 27 H. 6. In a Parliament of 27 of *Hen.* the 6. a Challenge of seate in Parliament betwixt the Earles of *Arundell* and *Devonshire*, was examined and appointed by the KING with the advice of the Lords.

Rot. Parl. Anno 28. Hen. 6. In that great capitall cause of the Duke of *Suffolke*, the 28 of *Hen.* 6. I finde not the King once present at the debates

debates, but the Duke appealing from his tryall by Peerage, to the King, is brought from out the house of Lords to a private Chamber, where the King after the Chancellor in grosse had declared his offence, and his refusall, the King himself (but not in place of judgement) adjudged his banishment.

By the Rolls of *Edward* the fourth, it appeareth that he was many dayes, besides the first and last of Parliament, and there was entred some Speeches by him uttered, but that of all the rest is most of marke, the reporter then present thus tells it. This of the Duke of *Clarence* and the King, *Tristis disceptatio inter duos tantæ humanitatis Germanos, nemo arguit contra ducem nisi Rex, nemo respondit Regi nisi dux*, some other testimonies are brought in, with which the Lords are satisfied, and so *Formarunt in eum sententiam damnationis*, by the mouth of the Duke of *Buckingham*, the Steward of *England*, all which was much distasted by the House of Commons.

Rot. Pa. 1. Edw. 4.

Registrum Coolanden.

The Raigne of *Henry* the seventh affords us upon the Rolls no one example. The journall Bookes are lost, except so much as preserves the passages of eight dayes in the twelfth yeare of his Raigne; in which the King was some dayes present at all debates, and with his own hand the one and thirti-

Ex Cartis Anno 12. H. 7.

eth day of the Parliament, delivered in a bill of Trade then read, but had the memorials remained, it is no doubt but he would have been as frequent in his Great Councell of Parliament, as he was in the *Starre-Chamber*, where by the Register of that Court it appeareth as well in debate of private causes, that toucheth neither life nor Member, as those of publique care, he every year of all his raign was often present.

Ex Regist. Cameræ Stellatæ.

Of *Henry* the eighth, memory hath not been curious, but if he were not often present, peradventure, that may be the cause, which the learned Recorder *Fleetwood*, in his preface to the Annalls of *Edward* the fifth, *Richard* the third, *Henry* the seventh, and *Henry* the eighth hath observed in the Statutes made in that Kings dayes, for which cause he hath severed their Index from the former: And much lay in the will of *Wolsey*, who ever was unwilling to let that King see with his own eyes.

Ex Annalibus Fleetwood Recordat. London.

Edward the sixth, in respect of his young years may be well excused, but that such was his purpose it appears by a memoriall of his own hand, who proportioning the affaires of Councell to severall persons, reserved those of greatest weight to his owne presence in these words. *These to attend the matters of State, that I will sit with them once a week to heare the debating of things of most importance.*

Memorial. E. 6. propria manu.

Unfit-

Vnfitneſſe by ſex in his two ſucceeding ſiſters, to be ſo frequent preſent as their former Anceſtors, led in the ill occaſion of ſuch opinion and practiſe.

Moſt excellent Majeſty, your moſt humble ſervant in diſcharge of obedience and zeale, hath haſtned up this abſtract which in all humility he offers up unto your gracious pardon. Preſumption to enter the Cloſet of your Counſell is far from his modeſty and duty, what hath been your powerfull Command he hath made his Worke, what is fit to be done with it, is onely your divine judgement. He dares not ſay Preſidents are warrants to direct; The ſucceſſe (is as worthy obſervation) as the knowledge of them, ſometimes have made ill example by extenſion of Regall power, through ill Counſells with ill ſucceſs. Some as bad or worſe when the people have had too much of that, and the King too little, the danger no leſſe. To cut out of either of theſe patterns to follow, were but to be in Love with the miſchieſe, for the example. The clearer I preſent this to your Highneſſe, the nearer I approach the uprightneſs of your heart, the bleſſed fortune of your happy Subjects: Pardon, moſt Sacred Majeſty, that I offer up unto your admired wiſdome, my weake, but dutifull obſervations out of all the former gathering. In Conſultations of State and deciſions of private

plaints it is cleer from all times, the King not onely present to advise and hear but to determine also, in Cases Criminall, and not of Blood, to barre the King a part were to exclude him the *Star-chamber*, as far from reason as example. The doubt is then alone in Crimes meer Capitall; I dare not commend too much the times that lost these patterns, either for the Causes or Effects; but wish the one and other never more. To proceed by publique Act of Commons, Peers, and King, was most usuall. Appeales are given by Law of *Hen.* 4. of this in now debate, the way I feare, as yet obscure, as great advice to State is needfull for the manner, as for the Iustice. The example in the cause of the Duke of *Suffolke*, 28 *Hen.* 6. where the King gave judgement was protested against by the Lords. That of the Duke of *Clarence* of *Edw.* 4. where the Lords and the high Steward the Duke of Buckingham gave judgment, was protested against by Commons, in both of these the King was sometimes present, but which of those may suite these times I dare not guess.

That of *Primo Rich.* 2. of *Gomeneys* and *Weston*, accused by the Commons plaint for Treason, was tried by the Lords in absence of the King, but sentenced by the Lord *Scroop*, Steward for the King. The Accused were of the ranke of the Accusers, Commons and not Lords: How this will

will make a Preſident to judge in cauſes Capitall, a Peer of Parliament, I cannot tell. But if I ſhould conceive a way anſwerable as well to Parliament as other Courts, if the King and the Lords were Triyers, and the Commons aſſenters to the judgement to hear together the Charge, and evidence; The Lords as doth the Iury in other Courts, to withdraw, to find the Verdict, and then the Steward, for the King, to pronounce the Sentence. It paſſeth ſo by way of Act and Courſe that carrieth with it no exception, and likely to avoid all curious queſtions of your Highneſſe preſence there.

If your humble ſervant hath in this expreſſion of his deſire to do you ſervice, preſumed too far, his Comfort is, that where zeale of duty hath made the fault, benignitie of goodneſſe will grant the Pardon.

A

A DISCOVRSE OF THE LAWFVLLNES OF COMBATS

To be performed in the presence of the KING, or the Constable and Marshall of ENGLAND.

Written by Sir *Robert Cotton*, Knight and Baronet. 1609.

LONDON,
Printed in the Yeare 1651.

A DISCOVRSE OF THE LAVVFVLLNES OF COMBATS

To be performed in the presence of the KING, &c.

COMBAT.

WHere difference could not be determined by legall proof or testimony, there was allowed the party his purgation,

Combat. Ex lib.3.Const. Car.magni de testibus. Bract.l.3.c.18 fol. 137.tit. Corona.

Which was either { *Canonicall* or *Legall.*

The first by Oath, and called *Canonicall*, because it is Lawfull.

The

The other, which was either *Per aquam candentem, ferrum ignitum*, or *Duellum*, called *vulgare*, because it was brought in by the barbarous people, without the pretext of any Law; untill the *Gothish* and *Lombard* Kings, seeing their Subjects more addicted to Martiall Discipline than to Civill Government, reduced those trialls to Form and Rule: Which Constitutions are now incorporated in the Civill Law.

Leges Lombard. fol. 17. b. Luitprando Rege. Propter consuetudinem gent. legem impiam vitare non possumus.

From the Northern Nations (of which the *Saxons* and *Normans*, or *Northmanni* are part) it was brought into this Land, And although it grew long agoe, both by the Decrees of *Desiderius Luitprandus*, and the Mother Church, discontinued amongst the *Lombards*, as soon as they grew Civilized in *Italy*; yet it continued till of late with us, as a mark of our longer barbarisme: Neither would we in this obey the See of *Rome*; to which we were in many respects observant children; which, for that in the Duell, *Condemnandus sæpe absolvitur, & quia Deus tentatur*, decreed so often and streightly against it.

De Papia. Hist. l. 9. c. 11. Lib. 5. Decret. 2. part. ca. 1. qu. 40.

In *England* this single Combat was either granted the party by license extrajudiciall, or legall processe. The first was ever from the King, as a chief flower of his Imperiall Crowne, and it was for exercise of Arms especially.

Thus did *Richard* 1. give leave for Tournaments in five places in *England*; *inter*

Rich. 1. Parl. Anno 20.

Sarum

Sarum & Winton; inter Stamford & Wallingford, &c. ita quod pax terræ nostræ non infringetur, nec potestas justiciara minorabitur: For performance whereof, as likewise to pay unto the King according to their qualities or degrees, a sum of money proportionable, and that of a good value and advantage to the Crowne, they take a solemn Oath.

The like I finde in 20 *E.* 1. and 18 *E.* 3 granted *Viris militaribus Comitatus Lincoln*, to hold a Iust there every year. *Richard Redman* and his three Companions in Arms, had the licence of *Rich.* 2. *Hastilndere cum Willielmo Halberton, cum tribus socis suis apud Civitat. Carliol.* The like did *H.* 4. to *John de Gray*; and of this sort I find in recotds, examples plentifull.

20 *E.* 1.
Pat. 18 *E.* 3. *in* 44. *part* 2.
Pat. part. 3.
Anno 19 *R.* 2. *m.* 16.
Pat. Anno 5. *H.* 4. *m.* 8.

Yet did Pope *Alexand.* the fourth, following also the steps of his Predecessors, *Innocentius* & *Eugenius*, prohibit throughout all Christendome, *Detestabiles nundinas vel ferias quas vulgo Torniamenta vocant, in quibus Milites convenire solent ad ostentationen virium suarum & audaciæ, unde mortes hominũ & pericula animarum sæpe conveniunt.* And therefore did *Gregory* the tenth send to *Edward* the first his Bull *pro subtrahenda Regis præsentia a Torniamentis a partibus Franciæ*, as from a spectacle altogether in a Christian Prince unlawfull: For, *Gladiatorum sceleribus non minus cruore profunditur qui spectat*, *quam*

Lactan. divin. Instit. cap. 6.

quam ille qui facit, saith *Lactantius*. *And Quid inhumanius quid acerbius dici potest*, saith Saint *Cyprian*, then when *homo occiditur in voluptatem hominis, & ut quis possit occidere peritia est, usus est, ars est. Scelus non tantam geritur; sed docetur. Disciplina est ut primere quis possit, & Gloria quod periunt.*

St. Cyp. l. 1. Ep. 2.

And therefore great *Constantine*, as a fruit of his conversion (which *Honorius* his Christian successor did confirme) established this edict: *Cruenta spectacula in otio civili & domestica quiete non placent: quapropter omnino Gladiatores esse prohibemus.* And the permission here amongst us no doubt, is not the least encouragement from foolish confidence of Skill, of so many private quarrells undertaken.

Euseb. in vita Constant. l. 3. Zozomen. l. 1. c. 8. l. 2. Cod. & Glad. Ex Cod. Theodos. l. 5. c. 26.

Combats permitted by Law, are either in causes Criminall or Civill as in appeals of Treason, and then out of the Court of the Constable and Marshall; as that between *Essex* and *Montford* in the raign of *Henry* the first, for forsaking the Kings Standard.

Focelinus de Bracklaud cap. 12. H. 1.

That between *Audley* and *Chatterton* for betraying the fort of Saint *Salviours* in *Constant* the eighth yeare of *Richard* the second.

2. Part. pat. 8 R. 2 Memb. 8. Rot. Vascon. Anno 9. H. 4.

And that of *Bartram de Vsano*, and *Iohn Bulmer, coram Constabulario & Mariscallo Angliæ de verbis proditoris*, *Anno 9 H. 4.* The forme hereof appeareth in the

Plea

Plea Rolls, *Anno* 22 *E.* 1. in the case of *Vessey*: And in the Book of the Marshals Office, in the Chapter *Modus faciendi Duellum coram Rege.*

Placita coram Rege 22 *E.* 1.

In Appeales of Murther or Robbery, the Combat is granted out of the Court of the Kings Bench. The Presidents are often in the books of Law; and the forme may be gathered out of *Bractor*, and the printed Reports of *E.* 3. and *H.* 4. All being an inhibition of the *Norman* Customes, as appeareth in the 68th. Chapter of their Customary; from whence we seem to have brought it.

Bract. l. 3. *c.* 21 *Anno* 17 *E.* 3. *& Anno* 9 *H.* 4. *Ex Consuetud. Duc. Normaniæ. cap.* 68.

And thus far of Combats in Cases Criminall.

In Cases Civill, it is granted either for Title of Armes out of the Marshals Court; as between *Richard Scroope* and Sir *Robert Grosvenor*, *Citsilt*, and others, Or for Title of Lands by a Writ of Right in the Common-Pleas, the experience whereof hath been of late: as in the Case of *Paramour*; and is often before found in our printed Reports, where the manner of darraigning Battaile is likewise; as 1 *H.* 6. and 13 *Eliz.* in the L. *Dyer* expressed.

Tit. de Equeta multri fol. 145. *Breve Reg. orig. apud R.G.C.*

Reports Anno 1 *H.* 6. *Dyer Anno* 13 *Eliz.*

To this may be added, though beyond the Cognisance of the Common-Law, that which hath in it the best pretext of Combat; which is the saving of Christian blood by deciding in single fight, that which would be otherwise th'effect of publique War.

Reg. Hovededen & Adam Merimuth in vita E. 3.
Rot. Fran. Anno 7 R. 2 m. 24.
Compane de la fauche Regali & Spagna. f. 110.
Joan. de Molina Chron. de Loys Reg. de Aragon. fol. 43.
Bulla Martini 5. dat. in Kal. Maij Anno Pontific. 8.

Such were the Offers of *R* 1. *E.* 3. and *R.* 2. to try their right with the *French* King body to body. And so was that between *Charles* of *Arragon*, and *Peter* of *Terracone* for the Isle of *Sicilie*, which by allowance of Pope *Martin* the 4th. and the College of Cardinalls, was agreed to be fought at *Burdeux* in *Aquitain*. Wherein (under favour) he digressed far from the steps of his Predecessors, *Eugenius*, *Innocentius*, and *Alexander*; and was no patterne to the next of his name, who was so far from approving the Combat between the Dukes of *Burgundy* and *Glocester*, as that he did inhibit it by his Bull; declaring therein, that it was *Detestabile genus pugnæ, omni divino & humano jure damnatum, & fidelibus interdictum*; And he did wonder and grieve, *quod ira, ambitio, vel cupiditas honoris humani ipsos Duces immemores faceret Legis Domini & salutis æternæ, qua privatus esset quicunq; in tali pugna decederat: Nam sæpe compertum est superatum fovere justitiam: Et quomodo existimare quisquam potest rectum judicium ex Duello, in quo inimicus Veritatis Diabolus dominatur.*

And thus farre of Combates, which by the Law of the Land, or leave of the Soveraigne, have any Warrant.

It rests to instance out of a few Records, what the Kings of *England*, out of Regall Prerogative have done, either in

in reſtraint of Martiall exerciſes, or private quarrels; or in determining them when they were undertaken: And to ſhew out of the Regiſters of former times, with what eye the Law and Iuſtice of the State did look upon that Subject that durſt aſſume otherwiſe the Sword or Scepter into his own hand.

The reſtraint of Tournaments by Proclamation is ſo uſuall, that I need to repeat, for forme ſake, but one of many.

Placita anno 29. & 31 E. 1.

The firſt *Edward*, renowned both for his Wiſedome and Fortune, *Publice fecit proclamari, & firmiter inhiberi, ne quis, ſub forisfactura terrarum & omnium tenementorum, torneare, bordeare, juſtas facere, aventuras quærere, ſeu alias ad arma ire præſumat, ſine Licentia Regis ſpeciali.*

By Proclamation *R.* 2. forbad any but his Officers, and ſome few excepted, to carry any Sword, or long Baſtard, under pain of forfeiture and Impriſonment.

Rot. clauſ. anno 19 R. 2. dat. 26 Feb.

The ſame King, in the 19th of his raign, and upon the Marriage with the *French* Kings daughter, commanded by Proclamation, *Ne quis Miles, Armiger, ſeu alius Ligeus aut Subditus ſuus, cujuſcunque ſtatus, aliquem Francigenam, ſeu quemcunque alium qui de poteſtate & obedientia regis exiſterit*, upon what pretence ſoever, *ad aliqua facta Guerrarum, ſeu actus armorum exigat, ſub forisfactura omnium quæ Regi forisfacere poterit.*

Clauſ. in dorſo 19 R. 2.

And as in the Kings power it hath ever rested to forbid Combats, so it hath been to determine and take them up.

Com. St. Alban. 22 R. 2.

Thus did *R.* 2. in that so memorable quarrel between *Mowbray* and *Hereford*, by exiling them both. And when Sir *John de Anestie*, and *Tho. de Chatterton*, were ready to fight, *eandem querelam Rex in manum suam recepit*, saith the Record.

2. Pars pat. anno 8 R. 2.

Rot. Vascon. anno 9 H. 4. m. 14.

And *De mandato Regis direptum est prælium inter Johannem Bolmer, & Bartramum de Vesana* in the time of *Henry* the fourth.

Sir *Iohn Fitz-Thomas* being produced before the Earle of *Glocester*, Deputy of *Ireland*, and there Challenged by Sir *William de Vessy* to have done him wrong, in reporting to the King; that Sir *William* aforesaid should have spoken against the King defamatory words, of which Sir *Iohn* there presented a Schedule: *Willielmus, audito tenore Schedulæ prædictæ, dementitus est prædictum Iohannem, dicendo; mentitus est tanquam falsus, & proditor, & denegavit omnia sibi imposita, & tradidit vadium in manum Iusticiarij, qui illud admisit. Et prædictus Johannes advocavit omnia & dementitus est simil. dictum Willielm.* Whereupon the Combat was granted, and the time and place inrolled: but the Processe was adjourned into *England* before the King; who with his

Placita coram Rege. 22 E. 1.

his Counsell examining the whole proceeding, and that *Quia Willielmus attachiatus fuit ad respondend. Iohanni prædicto super diffamatione principaliter, & non sit citatus in Regno isto placitare in Curia Regis, placita de diffamationibus, aut inter partes aliquas, Duellum concedere in placitis de quibus cognitio ad curiam Regis non pertinet*; And for that the Iudge, *vadia prædictorum Iohannis & Willielmi cepit priusquam Duellum inter eos consideratum & adjudicatum fuit, quod omnino contra legem est & consuetudinem Regni*: Therefore, *per ipsum Regem & Concilium concordatum est, quod processus totaliter adnulletur*: And that the said *Iohn* aud *William* eant inde *sine die*; *salva utrique eorum actione sua si alias de aliquo in prædicto processu contento loqui voluerint.*

Rot. Parl. anno 23 E. 1.

In a Combat granted in a Writ of right, *Philip de Pugill*, one of the Champions, *oppressus multitudine hominum se defendere non potuit*: Whereupon the People against him *in perpetuam defamationem suã in eodem Duello Creantiam proclamabant*, which the King understanding, *Assensu Concilij statuit, quod prædict. Philipus propter Creantiam predict. liberam legem non omittat, sed omnibus liberis actibus gauderet sicut ante Duellum gaudere consuevit.*

What penalty they have incurred, that without law or license have attemptempted the practice of Arms, or their own Revenge, may some-

what appeare by these few Records following.

William Earle of *Albemarle* was Excommunicated *Pro Torniamento tento contra præceptum Regis.* To which agreeth at this day for the Duell the Councel of *Trent*, and that held at *Biturio* in *Anno* 1584.

Pit. in dors. 4 H. 3.
Conc. Trid. Sess. 9. Tit. Decreta Reform. Ex *Con. Biturien. fol.* 1022.

John Warren Earl of *Surrey* was fined at a thousand marks *pro quadam transgressione in insultu facto in Alanum de la Zouch.*

Clauf. anno 3. E. 1. m. 2.

Talbois was committed to the Tower for attempting to have slaine the Lord *Cromwell.*

Parl. anno 24 H. 6.

And because *Robertus Garvois insultum fecit & percussit Edwardum filium Willielmi, inquisitio facta est de omnibus tenementis & catallis prædicti Roberti.*

Edw. Dallingrige accused by Sir *John St. Leger* before the Kings Iustices *pro venatione, & aliis transgressionibus*, answered, that these accusations were false, and threw down his Glove, and challenged *disrationare materias prædictas versus prædictum Iohannem per Duellum. Sed quia contra legem terræ vadiavit inde Duellum*, he was committed to Prison, *quousque satisfaceret Domino Regi pro contemptu.*

Placita de quo Warranto anno 8 R. 2. Sussex.

Sir *Nicholas de Segrave*, a Baron, Challenged Sir *John de Cromwell*, and, contrary to the Kings prohibition, because he could not fight with him in *England*, dared him to come and defend himselfe in

France

France: therein (as the Record saith) subjecting as much as in him lay, the Realme of *England* to the Realm of *France*, being stayed in his passage at *Dover*, was committed to the Castle, and brought after to the Kings Bench; and there arraigned, before the Lords, confessed his fault, and submitted himself to the King *de alto & basso*: Wherefore judgement is given in these words, *Et super hoc Dominus Rex volens habere avisamentum Comitum, Baronum, Magnatum, & aliorum de consilio suo, injunxit eisdem, in homagio fidelitate & ligeantia quibus ei tenentur, quod ipsi considerent qualis pœna pro tali facto fuerit infligenda. Qui omnes, habito super hoc consilio, dicunt quod hujusmodi factum mœretur pœnam amisionis vitæ*, Whereupon he was committed to the Tower, and *Ro: Archerd*, that attended him into *France*, was committed to prison, arraigned, and fined at 200 marks. In the end, and after much intercession, the L. *Segrave* was pardoned by the King but could not obtain his liberty, untill he had put in security for his good behaviour.

Placita coram Rege Trin. 33 E. 1.

But this course holdeth proportion with an ancient law made by *Lotharius* the Emperour in these words. *De hijs qui discordiis & contentionibus studere solent, & in pace vivere noluerint, & inde convicti fuerint, similiter volumus, ut per fidejussores ad nostrum Palatium veniant, & ibi cum nostris fidelibus considerabimus quid de talibus hominibus faciendum sit.*

Ex lege Longibard. 45. *circa anno* 830.

A BREIFE ABSTRACT

Of the Question of

PRECEDENCIE BETWEEN ENGLAND AND SPAINE;

Occasioned by Sir *Henry Nevill* The Queen of *Englands* Ambassador, and the Ambassador of *Spaine*, at *Calais* Commissioners appointed by the *French* King, who had moved a Treaty of Peace in the 42. year of the same QVEENE.

Collected by *Robert Cotton* Esquire, at the commandment of her Majesty.

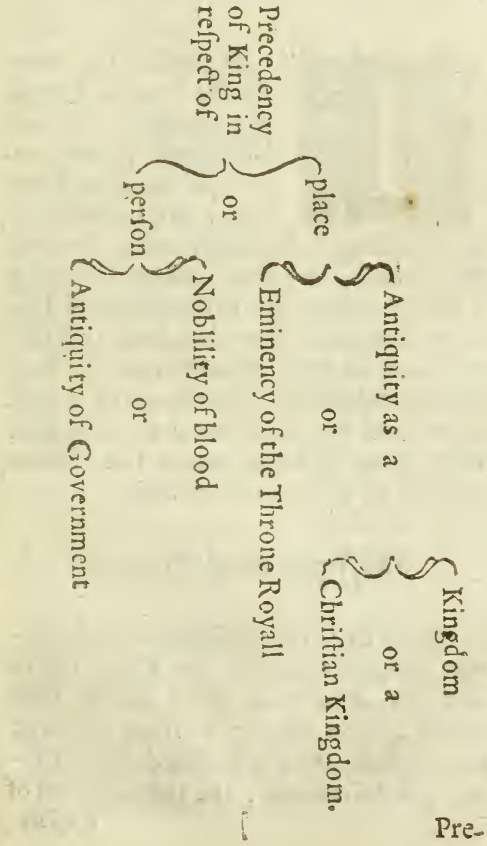
Anno Domini 1651.

LONDON,
Printed in the year 1651.

A BREIFE

ABSTRACT

Of the Question of Precedency between *England* and *Spaine*, &c.



Pre-

Precedencie of England *in respect of the Antiquity of the Kingdome.*

TO seek before the decay of the *Roman* Empire the antiquity of any Kingdome is meer vanity, when as the Kingdoms of Christendom, now in being, had their rising from the fall thereof; at which instant *Vortigern* a Native of this Isle, first established here a free Kingdom foure hundred and fifty years after Christ, & so left it to the *Saxons* fromwhom her Majesty is in discent Lineal; and it is plain, that as we were later then *Spaine* reduced under the *Roman* yoak, so we were sooner infreed.

Subsequence of Spaine.

Spaine since the dissolution of the *Roman* Empire entituled no King, till of late, for *Attalaricus* from whom they would, upon slender warrant, ground their dissent, was never stiled *Rex Hispaniæ*, but *Gothorum*, and the Kingdom of *Castile*,

Castile, wherein the maine and fairest antiquity of *Spaine* rested, begun not before the year of Christ 1017. whereas they were but Earls of *Castile* before; so that the Kingdome of the *English* began (which was alwaies as *Beda* observeth a Monarch in a *Heptarchie*) 460. years at the lest before the Kingdom of *Castile* or *Spaine*.

Rodericus Sanctius. pag. 312.

Beda.

Precedency of England *in respect of Antiquitie of Christian Religion.*

IOSEPH of *Aramathea* planted Christian Religion immediately after the passion of Christ, in this Realm.

Baronius.

And *Aristobulus* one of them mentioned by Saint *Paule*, *Romans* 6. was *Episc. Britannorum*, and likewise *Symon Zelotes*.

Dorothæus.

The first Christian King in *Europe* was *Lucius Surius*.

Beda.

The first that ever advanced the papacie of *Rome*, was the Emperour *Constantinus* born at *Yorke*. Of whom in the *Roman* Lawes neere his time is written *Qui veneranda Christianorum fide Romanum munivit imperium*; And to him peculiarly more than to other Emperours are these Epithitons attributed *Divus Divæ memoriæ*, *divinæ memoriæ orbis Liberator*, *quietis fundator*, *Reipublic. instaurator*, *publicæ*

Baronius & Donaco Constantini.

In inscriptionibus antiqui s.

publicæ libertatis auctor; Magnus Maximus, Invictus; Restitutor urbis Romæ, atq; orbis.

Fasciculus temporis. And there have been more Kings and Princes of the blood Royall, Confessors and Martyrs in *England*; than in any one Province in *Europe*.

And from *Ethelbert* King of *Kent*, (Converted *Anno* 596) untill this day, Christianity hath been without interruption continued.

Snbsequence of Spaine.

In the time of *Claudius*, Saint *Iames* preached in *Spaine*; but gained only nine Souls. So did he in *Ireland* as *Vincentius* *Tarapha.* saith; and they cannot count Christian religion to be then planted in *Spain*, which shortly after was first tainted with the heresie of *Priscilian*, then with *Gothish* Arianisme, and after defaced with *Moorish* Mahumetisme from 707. years after Christ *Tarapha.* in continuance 770. years, untill *Ferdinando*, King of *Arragon* and *Castilia* unterly expelled the *Moors*.

Precedency of England *in respect of the more absolute Authority Politicall.*

THe Queen of *Englands* power absolute in acknowledging no superiour, nor

nor in vassalage to Pope or Emperour. For that subjection which by King *Iohn* was made to *Innocentius* the third, after in Parliament *Per praeceptum Domini Papae septimo Iulii*, *Cum fidelitate & homagio relaxatur omnino.* *Eulogium lib.5*

Sir *Thomas Moore* in his debellation, saith, the Church of *Rome* can shew no such deed of subjection, neither that the King could grant it of himselfe. And *Engubinus* in his defence of *Constantines* dodation, nameth not *England*, where he recited all the feodary Kingdomes of the *Papacie*; the *Peter-pence* were not duties but *Eleemosina Regis*, neither the *Rome-Scot*, but *Regis larga benignitas: Parem non habet Rex Angliae in Regno suo; multo fortius nec superiorem habere debet* saith *Bracton.* *Ex legibus Sancti Edwardi.* *Ex legibus Canuti.*

Ipse non debet esse sub homine, sed sub deo, & habet tantum superiorem Iudicem deum: Likewise in appointing Magistrats; pardoning Life, Appeale, granting priviledges, taking homage; and his *Iura Majestatis* not limited in *censu nummorum*, *Bello*, *judicando*, *Pace ineunda.* *Bracton.*

Eleutherius the Pope 1400 years agoe, in his Epistle to *Lucius* King of *Brittaine*, stiled him *Vicarius Dei in Regno suo*, so is the King of *England* in *Edgars* Lawes; and *Baldus* the Lawyer saith, *Rex Angliae est Monarcha in regno suo*; and *Malmesburie*, *Post conversionem ad fidem tot & tantas* *Baldus.* *Malmsbury.*

tantas obstinuit Libertates quot imperator imperia.

Subsequence of Spaine.

The King of *Spaine* hath no Kingdom but is feodory either to *France* or *Castila* enthralled by oath of subjection and vassallage, from King *Henry*, to *Charls* the fifth of *France* 1369. *Ex fœdere contracto*: And for the *Netherlands*, there is homage due to the *French* King, or the *Papacie*, as *Arragon* to *Innocentius* the third, by King *Peter* 1204. confirmed by *Ferdinand* and *Alphonsus* 1445. and from *Iames*, by the like oath, 1453.

And to *Sardinia* and *Corsica* the King of *Arragon*, from the Bishops of *Rome*, were under oath of subjection invested: *Ex formula fiduciæ.*

The Kingdom of *Portugall* in vassellage to the Pope under an Annuall Tribute.

And the *Canaries*, *Hesperides*, and *Gorgon* Islands subjected to the See of *Rome* under the cheife Rent of foure hundred Florins, by *Lewis* King of *Spaine*, 1043.

Ex Eugubino. Of both the *Indies Alexander* did reserve the regalities of *Sicilia* the Church is chief Lord.

And *Granado* and *Navarre* were made feodary to the Pope, under *Iulius* the second.

Naples

Naples at every change sendeth a *Palfrey*, as a *Heriot*, due to the Church of *Rome*, and of the Empire he holdeth the Dukedom of *Millaine*.

So that it is questionable among *Civilians*: whether he be *Princeps* which holdeth in *feudo* all of others.

His absolute authority restrained in *Arragon*, by *Iustitia Arragonica*. In *Biscay* and other places, by particular reservations And his *Iura Majestatis in Censu Nummorum*, *Bello judicando*, *Pace ineunda &c.* Limited by the priviledges of the State, as at *Brabant* and elswhere in his *Spanish* Territories; *Ex propriis constitutionibus et privilegiis.*

Precedency of England *in respect of more absolute authority Ecclesiastical.*

HEr Majesties power more absolute in in this (confirmed by ancient Custome and priviledge) than any other Christian Prince. For no *Legat de Latere* in *England*, *de jure* allowed, but the Archbishop of *Canterbury*. *Ex Randolpho Nigro.*

If any admitted by courtisie, he hath no Authority to hold plea in the Realm, contrary to the Lawes thereof: *Placita* 2. *H.* 4. and before he was admitted and entered the Realme, he was to take oath, to do nothing derogatory to the King

and his Crowne. *Placita Anno primo Henri* 7. No man might denounce the Popes excommunication, nor obey his authority on paine to forfeit all his goods, without assent of the King or his Counsell. *Placita* twenty three & thirty four *Edw. Rot. Dunelm.*

Malmsbury. Henry the First called a Provinciall Councell, so did *Canutus* and others.

No appeale to *Rome* without the kings licence: *Anno* 32 & 34. *Edw.* 1. Inventure of Bishops and Churchmen, in the Kings hand. *Ex Mat. Paris & Hen. Huntington.*

De gestis Pontific. Donelm Placita. 32. *Edw.* 1. and in the 32. *Edw.* 3. Where the reason of the Kings Ecclesiasticall authority, to suspend or bestow Church livings is yielded, *Quia reges Anglia unguntur in Capite.*

Subsequence of Spaine.

The King of *Spaine* can prescribe no custome to prohibit the Popes Legat, nor useth any authority Penall over the Clergy; *Spaine* can produce no Example of any Provinciall Councell by call of the King. For *Bodin lib.* 1. *cap.* 6. towards the end writeth, that the Kings of *Spaine Non sine magna mercede impetraverunt Sixti Pontificis Romani rescripto ne perigrinis sacerdotia tribuerentur.*

Ap-

Appeales from the King to *Rome* allowed. So the Kings of *Spaine*, have merely no power Ecclesiasticall, having dispoyled himself of all, by inthralling their Kingdome to the Church of *Rome*.

Precedency of England, *in respect of Eminency of Royall Dignitie.*

THe Kings of *England* are anointed as the Kings of *France*, who onely have their preheminence before other Kingdomes declared by miracle, in the cure of the *Regius morbus*, which they can effect onely; and that of antiquity: For *Edward* the Confessor healed many. *Ex libro Barnwellensis Cænobiæ.*

2 They are superiour Lords of the Kingdome of *Scotland* and *Man*, and *Vicarii Imperii*; as *Edward* the third and *Oswald* intituled *Rex Christianissimus*: *vide Beda lib.* 2.

3 They are named *Filii adoptivi Ecclesiæ*, as the Emperour *Filius Primogenius*, and the King of *France*, *Filius natu minor*: *vide Platina.* *Platina.*

4 They are accompted among *Reges super illustres*, in this order: *Imperator*, *Rex Franciæ*, *Rex Angliæ & Franciæ*, *vide Corsetus.* *Corsettus.*

5 *England* in the Generall Councells at *Constance* and *Pisa*, was made a Nation,

Ex lib. Sacrarum Ceremoniar.

when as all Christianity was divided into four Nations, *Italicam*, *Gallicam*, *Germanicam*, *& Anglicam*. *Ex lib. sacrarum Ceremoniarum Ecclesiæ Romanæ.*

6 Whereupon seat accordingly was allowed at the three Generall Councells, *viz. Constance*, *Pisa*, *Sienna*, to the *English* Ambassadors next to the Emperour on the left hand, and to the King of *France* on the right hand: which were their Ancient seats before the *Spaniards* at *Basill* 1431. begun to contend for precedency.

Where it was in the first Session ordered, that all Legats should hold such their places, as they had enjoyed heretofore, according to their worth and antiquity: Yet in the Councell of *Trent* the precedency of *France* with *Spaine* was made questionable.

Augustus de Cavalles, as the strongest reason to bar the *French* Interest, inferred the Queen of *England* from her Ancestors, both in respect of Inheritance, Conquest, and gift, *de jure* Queene of *France*. By which reason when he doth shake or overthrow (as he thinketh) the Precedency of *France*, he doth consequently strengthen the Precedency of *England*.

And in Treaty between *Henry* the seventh, and *Philip* of *Castile*, 1506. the Commissioners of *England* did subsigne before the other, And in the Treaty of Marriage

Marriage with Queen *Mary*, *Anno* 1533 those of *England* are first rehearsed. And at *Burbrough Anno* 1588. they gave it to her Majesties Ambassadors.

And yet in respect of the Eminency of this Royall throne, to the See of *Canterbury* was granted by *Urbane*, at the Councell of *Claremount*, *Anno* 1096. for ever, the seat in Generall Councell, at the Popes right foot, who at that time uttered these words; *Includamus hunc in orbe nostro tanquam alterius orbis Pontificem Maximum.*

Subsequence of Spain.

1 The Kings of *Castile* are never anointed, neither hath the *Spanish* Throne that vertue to endowe the King therein invested, with the power to heale the Kings evill: For into *France* doe yearly come multitudes of *Spaniards* to be healed thereof.

2 No Kingdome held in fee of him.

3 *Spaine* then not remembred one of the Sons of the Church.

4 The King of *Spaine* placed last after the King of *England*, *inter super illustres*, by the said *Corsettus*.

5 The Kingdome was then comprised under *Itallica natio*, and no Nation of it self, as in old it was called *Iberia minor*, as a member of *Italy*, *Iberia major*. *Virgilius.*

Cosmographia. *England* being *Britannia major.*

At which time the *Spaniard* contented himself with the place next to the King of *France.*

Garsius.

Precedency of England *before* Spaine, *in respect of the Nobility of Blood.*

HEr Majesty in Lineall discent is deduced from Christian Princes for 800 years, by *Ethelbert* a Christian 596. and the Matches of her progenitors most Royall with *France, Germany, Spain.*

Subsequence of Spaine.

For their Antiquity of discent as Kings of *Spain* is chiefly from the Earls of *Castilia* about 500 years since.

vide Tarapha.

For they cannot warrant their discent, from *Atalaricus* the *Goth*, and as Dukes of *Austria* from the Earles of *Hapsburgh* onely about 390 years since.

Their matches anciently for the most part with their subjects, and of late in their own blood.

Precedency of England, *in respect of antiquity of Government.*

HEr Majesty having raigned now most happily 42 years;

This

This we would not have alleged, but that the *Spanish* Ambassador at *Basill*, objected in this respect the minority of *Henry* the sixt.

Her sex herein nothing prejudiciall, when as both divine and humane Lawes do allow it, and accordingly *Spaine*, *England*, and *Hungary*, insomuch, that *Mary* Queen of the last, was alwayes stiled, *Rex Mario Hungariæ. vide Tilius.*

Tilius.

Subsequence of Spaine.

The King of *Spaine* yet in the Infancy of his Kingdome.

For the Precedency may be alleged, viz.

The Antiquity of the Kingdome, when as *Castile*, *Arragon*, *Navar* and *Portugall*, had their first Kings about 1025.

Anno Christi. 1025.

The ancient receiving of the Christian Faith, by *Ioseph* of *Aramathea*, *Simon Zelotes*, *Aristobulus*, yea by St. *Peter*, and St. *Paul*, as *Theodoretus*, and *Sophrinius* do testifie.

The Kingdome is held of God alone, acknowledging no superiour, and in no vassalage to the Emperour or Pope, as *Naples*, *Sicilia*, *Arragon*, *Sardinia*, and *Corsica*, *&c.*

Sir *Thomas Moore* denyeth, that King *Iohn*, either did, or could make *England* subject to the Pope, and that the Tribute was not paid (pag. 296.) but the *Peter-*

pence, were paid to the Pope, by K. *Iohn*, by way of Almes.

The absolute power of the King of *England*, which in other Kingdomes is much restrained.

England is accompted the fourth part of Christendome; For in the Councell of *Constance* all Christianity was divided, in *nationem, viz. Italicam, Germanicam, Gallicanam, & Anglicanam*, and accordingly gave voices.

1415.

England in the opinions of the Popes is preferred, because in it is conteined in the Ecclesiasticall division, two large provinces, which had their severall *Legati nati* when as *France* had scantly one.

Anno Christi.

The Emperour is accompted *major filius Papæ*, the King of *France filius minor*, the King of *England*, *filius adoptivus*.

The Archbishops of *Canterbury*, are accompted by the people, *tanquam alterius orbis Papæ*, and appointed to have place in Generall Councels, at the Popes right foot.

The title of *Defensor fidei*, as honourably, and as justly bestowed upon the Kings of *England*, as *Christianissimus* upon the *French*; or *Catholicus* upon the *Spaniard*.

Edward the third, King of *England*, was created by the Emperour, *Vicarius Perpetuus Imperii; cum jure vitæ necisque in omnes Imperii subditos*, and the Kings of *England*, *Papæ Vicarii*, by Pope *Nicho-*

1338.

1065

las

las the second, *vide* COPGRAVE.

Innocentius the fourth, the Pope said, *vere hortus deliciarum est Anglia, vere puteus inexhaustus ubi multa abundant. &c.* 1246.

King *Hen.* 2. elected King of *Ierusalem* by the Christians. 1185.

Richard the first conquered the Kingdome of *Cyprus*, and gave it unto *Guy Lusignian*, whose posterity raigned there untill of late years. 1191.

Kings of *England* are superiour Lords of the Kingdom of *Scotland*, and are absolute Kings of all the Kingdom of *Ireland*.

England is not subject to Imperiall and Roman Laws, as other Kingdomes are, but retaineth her ancient lawes, and *Iura municipialia*.

King *Henry* the sixt was Crowned King of *France* at *Paris*.

The Kings of *England* did use the stile of a Soveraign, viz: *Alti conantis Dei, Largiflua, Clementia qui est Rex Regum & Dominus Dominorum.*

Ego Edgarus anglorum βασιλευς *Omniumq; Regum Insularumq; Oceani Britanici Circumjacentium, cunctarumque Nationum quæ infra eam includuntur, Imperator ac Dominus.*

A REMONSTRANCE OF THE TREATIES OF AMITIE AND MARRIAGE

Before time, and of late, of the House of *AUSTRIA* and *SPAINE*, with the Kings of *ENGLAND*, to advance themselves to the Monarchy of *Europe*.

Written by Sir *Robert Cotton*, Knight and Baronet.

LONDON,
Printed in the Yeare 1651.

A Remonſtrance of the

TREATIES OF AMITIE AND MARRIAGE

Before time, and of late of the Houſe of *AUSTRIA* and *SPAINE*, &c.

Moſt excellent Majeſty,

WEE your Lords Spirituall and Temporall and the Commons of your Realme Aſſembled in this your Parliament, having received out of your meere grace, your Royall command, to declare unto your highneſſe our advice and Counſell, for the further continuing, or finall breaking of the two Treaties betweene your Majeſty the Emperor

Emperor, and the *Spanish* King touching the rendition of the Palatinate, to the due and former obedience of your Illustrious Sonne the Prince Palatine; and that of Marriage, between the Lady *Mary* Infant of *Spaine*; and the most excellent Prince your Sonne, now Prince of *Wales*; We conceive it not unfit to offer up to your admired wisdome and consideration these important Motives that induced our subsequent advice and resolution.

By contemplation whereof, we assume to our selves that your Majesty apparently seeing the infinite Calamity fallen of late unto the Christian world, by means of these disguised Treaties of Amitie, and Marriage before time, frequently used with your progenitors, and now lately with your selfe by the house of *Austria*; and *Spaine*; to advance themselves to the Monarchie of *Europe*, will graciously be pleased to accept our humble advise.

Maximilian the Emperor, and *Ferdinand* of *Spaine* uniting by marriage the possessions of the House of *Austria*, the *Netherlands*, *Arragon*, *Castile*, *Scicilie*, and their new discoveries, to one succeeding heire, began (though a farre off) to see a way whereby their Grandchild *Charls*, might becom the Master of the Westerne world, and therefore each endeavoured by addition of Territories, to facilitate that their desired end.

1503.

France

France was the only obſtacle, whoſe ambition and power then was no leſſe than theirs; he lay in their way for *Gelders*, by ſiding with Duke *Charls*; for *Navarre*, by protecting *Albert* their King, for their peeces in *Italy*, by confederation with the State of *Venice*; and for *Naples* and *Millain* by pretence of his own. They were to weake to worke out their way by force, and therefore uſed that other of craft.

Lewis is offered for his daughter *Claude* the Marriage of *Charls* their Grandchild, it is at *Bloys* accepted, and to them confirmed by oath: the claime of *France* to *Naples* by this releaſed one hundred thouſand Crowns yearly, by way of recognition only to *France* reſerved, who is beſides to have the inveſture of *Millain* for a ſumme of money, which the Cardinall *D'amboyes*, according to his Maſters Covenant, ſaw diſcharged.

Ferdinand thus poſſeſſed of what he then deſired, and *Maximilian* not meaning to ſtrengthen *France* by addition of that Dutchie or repayment of the money, broke off that Treaty to which they were mutually ſworne, affiancing *Charls* their heire to *Mary* the daughter of *Henry* the 7; to whoſe ſon *Arthur Ferdinand* had married *Katherin* his youngeſt daughter. 1506.

This double knot with *England*, made them

them more bold (as you ſee they did) to double with France: but the Prince of *Wales* his untimely death, and his fathers that ſhortly followed, enforced them to ſeek out, as they did, another tye, the Spirit and power of *Lewis*, and their provocations juſtly moving it: they make up a ſecond Marriage for *Katherine* with *Henry* the eighth, ſonne of *Henry* the ſeventh; and are enforced to make a Bull
1510. dated a day after the Popes death to diſpence with it; and conſummate *per verba de præſenti*, by Commiſſioners at *Calis*, the former Nuptualls of *Charls* and *Mary*, publiſhing a Book in print of the benefit that ſhould accrew to the Chriſtian world by that Alliance.

Henry the eighth left by his father young and rich, is put on by *Ferdinand* to begin his right to *France* by the way of *Guyen*; and to ſend his forces into *Spaine*,
1512. as he did, under the Marqueſſe *Derſet*, to joyne with his Father in Law for that deſigne, by reputation whereof *Albert* of *Navarre* was enforced to quit that State to *Spaine*; who intended as it proved, no further uſe of the *Engliſh* Army than to keep off the *French* King from aſſiſting *Albert*, untill he had poſſeſſed himſelfe of that part of *Navarre*, which his ſucceſſors ever ſince retaine. For, that work ended, the *Engliſh* forces were returned home in Winter, nothing having advanced their Maſters ſervice.

The

The next yeare to assure *Henry* the eighth, grown diffident by the last carriage of *Maximilian* and *Ferdinand*, whose only meaning was to lie busying of the *French* King at home, to make an easy way abroad to their former ends, project to the *English* King an enterprise for *France*, to which they assured their assistance, by mutuall confederacy at *Mechlin*; for which *Bernard de Mesa*, and *Lewis de Carror*, for *Castile* and *Arragon*, and the Emperor in person gave oath, who undertook, as he did, to accompany *Henry* the eighth to *Turwyn*. 1513

Ferdinand in the mean time dispatching the Vice-roy of *Naples* into *Italy*, to busy the *French* King and *Venetian*, that the *English* King with facility might pursue the conquest of *France*.

Henry the eighth had no sooner distressed the *French* King, but *Ferdinand*, respecting more his profit than his faith, closed with *Lewis*, who renounced the protection of *Navarre* and *Gelders*, so hee and *Maximilian* would forsake the tye they had made with *Henry* the eighth.

The Vice-Roy of *Naples* is instantly recalled from *Bressa*; a truce with *Spain* & *France* concluded; *Quintean* sent to the Emperour to joyne in it; *Don John de Manuel*, and *Diego de Castro* imployeo to worke the Emperor, and *Charles* the Grandchild to exchange the marriage of 1514

Mary, *Henry* the eighths Sister, with *Reve* the ſecond daughter of the *French* King: and *Lewis* himſelfe to take *Elanor* their Neece to wife: and to clear all diſpute about the conditions, a blanck is ſent from *Spaine* to the *French* King to over-write what he pleaſe.

Henry the eighth perceiving this cloſe and fowle play, entertaineth an overture made by the Duke *de Longevil* then priſoner in *England*, for a Marriage of *Mary* his Sister with the *French* King, which effected, the two ſubtile Princes failed of their ends.

1515 *Lewis* dead, and *Francis* ſucceeding, he made his firſt entrance a league with *England*, the recovery of *Millane* which he did, the protection of his neighbours, and reduction of the *Swiſſes* from the Imperiall ſide, for which he imployed to them the baſtard of *Savoy*.

Maximilian and *Ferdinand* ſeeing by this all their new purchaſes in danger, and that they had now no diſguiſed marriage againe to entertaine the credulity of *Henry* the eighth, they worke upon his youth and honor. The Emperor will needs to him reſign his Emperial Crown as wearied with the weight of Government and diſtraction of *Europ*, which needed a more active man then his old age, to defend the Libertie of Subjects, and Majeſty of Princes from the Tyranny of *France*.

That he had made the way already for him

him with the Electors; that he would send the Cardinall *Sedunensis*, with ample commission into *England* to conclude the resignation, which was done. That at *Aquisgrave* he will meet *Henry* the eighth, and there give up his first Crown, from thence accompany him to *Rome*, where he should receive the last right of the Imperiall dignity, putting *Verona* into his protection, then assailed by the *Venetians*; and giving him the investiture of *Milane* in *feodo*, *more Imperiali*, then in possession of the *French*, to tye his aide the faster against these States.

Hereupon *Henry* the eighth concluded a defensive league with the Bishop of *Mesa* and Count *Daciana*, authorised Commissioners from the Emperor, *Arragon*, *Castile*, and sendeth his Secretary Master *Pace* with money, for *Maximilian* had already borrowed and broken to entertain the *Swissers* into pay and confederacy against *France*. 1516

Charles the Grandchild must feign a difficulty to sway his League, untill the Emperor at *Henry* the eights cost, was fetched from *Germany* to the *Netherlands* to work his Nephew to it; who in the interim had closely contracted a peace by the Grandfathers consent with *France*. No sooner had *Maximilian* received ten thousand *Florins* of the *English* King to beare his charge, but the Treaty

of *Noyon*, was closely between him, *Arragon* and *Castile* concluded, whereby the ten thousand Crowns for recognition of *Naples* was passed from *France* to the Emperor, and *Charls* himselfe affianced to *Loysia* the *French* Kings daughter, and also dackly carried, that when Master *Pace* at *Agno* came downe from the Emperor with his Signature of the confederacy, the *French* Kings Ambassador went up the back Stairs, with six thousand Florins, and the transaction of the Pension of *Naples* to *Maximilian*, and there received his confirmation of the Treaty at *Noyon*; notwithstanding the same day the Emperor looking upon his George and Garter, wished to *Wingfeild*, *Henry* the eights Ambassador, that the thonghts of his heart were transparent to his Master.

So displeasing was this foule play to the Cardinall *Sedunensis*, the Emperors chiefe Counsellor, that he writ *contra perfidiam Principum*, against the falshood of his own Lord, a bitter Letter to the *English* King; who finding againe how his youth and facility was overwrought by these two old and subtill Princes, his vast expences lost, his hopes of *France* lesned, and that of the Emperor vanished (for
1518 *Maxmilion* is now conferring the Title of *Rex Romanorum* to one of his Nephues) concludeth, by mediation of the Admirall of *France*, a peace with that King;

a

a marriage for the *Dolphin Francis* with the Lady *Mary*, and the re-delivery of *Tournay*, for a large Summe of Money

Not long after *Maximilian* dieth, leaving the Imperiall Crown in Competition of *France* and *Castile*. *Charls*, whose desire was, as his Ancestors, to weave that wreath for ever into the *Austrian* Family, began to feare the power of his corrivall, with whom the Pope then sided, and the *English* King stood assured by the late marriage of their two Children. To draw off the Pope he knew it was impossible, he was all *French*. To worke in *Henry* the eighth, he found the inconstancy of his predecessors, and the new match to lie in the way. To clear the one, he is faine, in his Letters into *England*, to load his two Grandfathers with all the former aspertions, his years, and duty, then tying him more to obedience than truth: but that he was a man, and himself now; that mutuall danger would give assurance, where otherwise single faith might be mistrusted; *France* was in it selfe, by addition of *Britany*, more potent than ever, this man had rejoyned to it some important pieces in *Italy*, and should his greatnesse grow larger up by accession of the Imperiall Crown, how easy were it to effect indeed what he had fashoned in Fancie, the Monarchy of *Europe*. As for the young 1519

Lady, who was like to lose her husband if *Henry* the eighth incline to this Counsell, and assist *Castile* in pursute of the Emperor; he was contented (for *Loisia* of *France*. espoused to him by the Treaty at *Noyon*, was now dead) to make up the losse of the Lady *Mary* by his own Marriage with her; a match fitter in years, for the *Dolphin* was an infant, as great in dignity; for he was a King, and might by the assistance of her father be greater in being Emperor.

Thus was *Henry* the eighth by fears and
1519 hopes turned about againe, and *Pacy* forthwith sent to the Electors with instructions & money, who so wrought that *Charls* was in *July* chosen Emperor: and that it was by the sole work of *Henry* the eighth, himself by Letters under his hand acknowledged. From *Aquisgrave*, he commeth Crowned the next yeare for
1522 *England*, weddeth at *Winsor* the Lady *Mary*; concludeth by league the invasion of *France*, and to divide it with *Henry* the eighth by the River of *Rodon*, making oath at the high Altar at *Pauls* for performance of both those Treaties.

Hereupon *France* is entred by the *English* army, and *Burbon* wrought from his Allegiance by a disguised promise of this Emperor of *Elianor* his Sister for wife, to raise forces against his Master, which he did, but was paid by the *English* King.

The

The *French* King to carry the wars 1524
from his own dores, maketh towards *Milan*; 1525
whereby *Burbon* and his forces were drawn out of *Province* to guard the Imperialls in *Italy*.

At *Pavie* they met, and the *French* 1526
King was taken prisoner, and forthwith transported into *Spaine*; where at *Madrid* the Emperor forced his consent to that Treaty, whereby he gained *Burgundy*, and many portions in the *Neithirlands*; leaving *Henry* the eighth who had born the greatest charge of all that Warre, not only there unsaved, but calling a Parliament at *Toledo*, taketh by assignment of his States, *Isabella* of *Portugall* to wife, procuring from Pope *Clement* a Bull to absolve him of his former oaths and Marriage, working not long after by *Ferdinandus* his Chaplain, the Earle of *Desmond* to Rebell in *Ireland*, and *Iames* the fifth of *Scotland*, by promise of Marriage with his Neece the daughter of *Denmarke*; to whom he likewise sent Munition, and money, to busie *Henry* the eighth at home, that he might be the lesse able to requite these indignities he had so done him. And to shew that his ambition was more than his piety, he Ordered by instructions, first the Duke of *Burbon*, and after *Hugo de Monsado* to surprise *Rome* and the Pope; sending *Angelo* an observant Friar thither, whom he had assigned to

the Papall Throne, intending to reduce the choise of the See from the Cardinalls againe, to the Empire, and there to set up a first Monarchie.

But his designe by a needfull confederacy, as now of the Pope, *French* King, Princes of *Italy* and others, with *Henry* the eighth, who was made *Caput fœderis*, was to the safety of all Christian Princes, prevented happily, and he himselfe reforced at *Cambray* in the yeare one thousand five hundred twenty and nine, to re-deliver the
1529 *French* King, and many peeces of that Crown he had wrested away by the Treaty of *Madrid*, and to sit down with moderate and faire conditions against his will.

His waking Ambition would not long let him rest, but againe he plotteth to break the knot between the *French* and *English* Kings.

To worke this, he assureth, by contract, his assistance in furtherance of *Henry* the eighths Title to *France*; and to make the greater beliefe, offereth a marriage to the Lady *Mary*, so she might be declared againe Legitimate.

Henry the eighth accordeth with him, and advanceth his Army into *France*, where he had no sooner recovered *Fulleyn*, but thr Emperor catching advantage on the *French* Kings necessities, falleth off

off from his former faith and promise, making up a peace perpetuall with *France*, whereby all claym from the Crowne of *Arragon*, *Naples*, *Flanders*, *Arras*, *Gelders*, and other parts was released, and mutuall confederation for restitution of the Catholick Religion concluded betwixt them both. 14 *Septemb.* 1545.

Edward the sixth succeeding his Father borbears all Treaties with *Spaine*, but those of intercourse, persisting as formerly in union with the Princes of *Germany*, and his other Allies, preventing those expences and dangers, which his Fathers beliefe and confidence of *Spaine* had tasted of before.

His Sister and Successor *Mary*, entertaining that fatall Amity with the Emperour and his sonne, by Marriage, embarqued her Estate in a dangerous war, whereby the Realm was much impoverished, and *Callice* lost. 1558

Her Sister of happy memorie succeeding made up that breach, by that three-fold Treaty at *Cambray*, 1558. Where King *Philip* as bound in honor, stood bound for aid in Recovery of *Calice*; But his own ends by that Covocation served, he left her after to worke out her safety her selfe alone; yet fearing that a Vnion of *France* and your Realmes, in the person of your most vertuous Mother, then married into *France*. He under a feigned pretence of Marriage, wrought, by *Caraf-*

fas

fa, and his Faction of other Cardiualls, a ſtay of the Popes Declaration againſt the Queen of *England*, more his own fears, than his love procuring it.

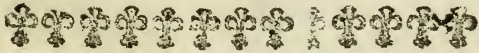
Yet the Princely diſpoſition of this Noble Lady, taking thoſe pretences for reall favours, was not wanting both with her Counſell and Purſe; for ſhe imployed many of her ableſt Miniſters to mediate, and disburſed upon the aſſurance of *Brabant*, and the good Towns of *Flanders*
1578 whoſe bonds are yet extant, for reduction of thoſe Provinces to his obedience.
150000 *li.* one hundred and fifty thouſand pounds.

But when ſhe found his aime to be the violating of their ancient liberties, and in it ſaw her own danger involved; Her Counſell adviſed her, not to leave the aſſiſtance of thoſe People, *France*, and thoſe other Princes that lay as her ſelfe in danger, to be ſwallowed up in his ambitious ends, who, when he intended the Conqueſt of her Eſtate, to blind her with ſecurity, preſented by *Carolo Lanfranco*,
1587 and the Prince of *Parma*, a Propoſition of Peace; graced with as many Arguments of honeſt meaning, as his Progenitors had uſed to her Father, which ſhe accepted: but not without a prudent ſuſpition. For when the treaty was in height, he brought his Invincible Navy to invade the Realm, the ſucceſs whereof was anſwerable to his Faith and Honor. She left not that injury without Revenge, but forced him in

in his after Raigne, to that extremity, that he was driven to break all faith with those Princes that trusted him; and paid for one years Interest, about twenty five thousand Millions of Crowns. 1597 25000 *Mill. of Crownes.*

So low and desperate in Fortunes your Highness found him, when to all our comforts you took this Crowne; Then from from the abundant goodness of your peaceable Nature, yon were pleased to begin your happy Raigne with generall quiet, and with *Spain* the first, which should have wrought in noble Natures a more gratefull Recompence than after followed: For long it was not before *Tyrone* was hartned to rebell against your Highnesse, and flying, had pension at *Rome*, paid him from the *Spanish* Agent. His sonne *Odonell Tirconell*, and others your chiefest Rebells, retained ever since in Grace and Pay with the Arch-dutchess, at *Spains* devotion. *King James.* 1603 1603 1606 1612

As soone as your eldest Sonne of holy memory now with GOD, was fit for marriage, they began these old disguises by which before they had thriven so well, *&c.*



Twenty

Twenty Four

ARGVMENTS,

Whether it be more expedient to ſuppreſs

POPISH PRACTISES

Againſt the due

ALLEGEANCE

OF HIS

MAIESTY,

By the Strict Executions touching *Jeſuits* and *Seminary* Preiſts?

OR,

To reſtraine them to Cloſe Priſons, during life, if no Reformation follow?

Written by Sir *Robert Cotton*, Knight and Baronet.

London, Printed in the Year, 1651.

Twenty Four

ARGUMENTS

Whether it be more expedient to ſuppreſs

POPISH PRACTISES

Againſt the due

ALLEGEANCE

To His

MAJESTY.

By the Strict Execution touching *Jeſuits*, and *Seminary* Prieſts, &c.

I Am not ignorant, that this latter age hath brought forth a ſwarm of buſie heads, which meaſure the great Myſteries of State, by the rule of their ſelf-conceited wiſdomes; but if they would conſider, that the Commonwealth, governed by grave Counſellors is like-

like unto a Ship directed by a skillfull Pylot, whom the necessities of occasions, and grounds of reason, why he steereth to this, or that point of the Compass, are better known, then to those that stand a loose off, they would perhaps be more sparing, if not more wary in their resolutions; For my own particular I must confess, that I am naturally too much inclined to his opinion, who once said, *Qui bene latuit, bene vixit*, and freshly calling to minde the saying of *Functius* to his Friend, at the hour of his untimely death *Disce meo exemplo mandato munere fungi: Et fuge seu pestem* ——

I could easily forbeare to make my hand writing the Record of my opinion, which nevertheless I protest to maintain rather deliberatively, than by the way of a conclusive assertion; therefore without wasting precious time any longer with needless Prologues, I will briefly set down the question in the termes following, *viz.*

Whether it be more expedient to suppresse Popish Practises, against the due Allegeance to his Maiesty, by the strict Execution touching Jesuits and Seminary Priests: Or to restrain them to close Prisons, during life, if no Reformation follow.

In

In favour of the firſt Diviſion.

1

THere are not few, who grounding themſelves on an Antient Proverbe *A dead man bites not*, affirme, that ſuch are dangerous to be preſerved alive; who being guilty, condemned, and full of fear, are likely for purchaſe of Life and Liberty, to inlarge their uttermoſt in deſperate adventures, againſt their King and Countrey.

Mercy foreunning the ropine of a malefactor, is an ill Guardian of a Princes Perſon.

2

No leſſe is it to be feared, that while the ſword of Iuſtice is remiſs, in cutting off heinous offendors againſt the Dignity of the Crown, the miſ-lead Papall multitude, in the interim, may enter into a jealous ſuſpence, Whether that forbearance proceed from fear of exaſperating their deſperate humours, or that it is now become queſtionable, Whether the execution of their Prieſts, be ſimply for matter of State, or pretended quarell for Religion.

A hard hand, ſudenly remitted, is ſeldome by the rude people interpreted in the beſt ſenſe.

3

And whereas in a remedileſs inconvenience, it is lawfull to uſe the extremity of Lawes againſt ſome few, that many by the terrour of the example, may be reformed; what hope can there be that Clemencie

There is no hope of Reformation, where there is no Confeſſion of the fault.

may tame their hearts, who interpret His Majesties grace in transporting their Priests out of His Realme, to be a meer shift to rid the Prisons of those whom Conscience could not condemn of any capitall crime.

Whilst Justice sleeps, the time serves to sowe news, and raise Factions.

4

Neither are their vaunting whisperings to be neglected, by which they seek to confirm the fearfull soules of their party, and to inveigle the ignorant, doubtfull or discontented persons: for if the glorious extolling of their powerfull friends, and the expectance of a golden day, be suffered to win credit with the meaner sort, the relapse cannot be small, or the meanes easie to reform the error, without a generall combustion of the State.

Fearfull spirits, by sufferance, grow insolent and cruell.

5

Let experience speake somewhat in this behalfe, which hath evidently descryed, within the Current of few years, that the forbearance of severity, hath multiplied their Roll in such manner, that it remaines as a Corrosive to thousands of his Majesties well-affected Subjects.

Union, in a prepared conspiracie, prevailes more than number.

6

To what purpose serves it to muster the names of the Protestants, or to vaunt them to be ten for one of the *Roman* Faction? as if bare figures of numeration could prevaile against an united party

ty, resolved, and advised before hand, how to turn their faces with assurance, unto all dangers, while in the meane time, the Protestants neastling in vain security, suffer the weed to grow up that threatneth their bane and mercilesse ruine.

7

Sometime the Oath of Supremacy choaked their presumptuous imaginations; and yet could not that infernall smoke be smothered, nor the Locusts issuing thereout be wholly cleansed from the face of this Land. Now that the temporall power of the King, conteined in the Oath of Allegeance, is by the Papall See, and many of the Adorers thereof, impudently avowed to be unlawfull; shall the broachers of such Doctrine be suffered to live, yea and to live and be relieved of us, for whose destruction they groan daily?

It is hard to perswade those who by reason of their dependency on the Pope, are Searce masters of their own Souls.

8

To be a right Popish-Priest, in true *English* sense, is to bear the Character of a disloyall *Renegado* of his naturall obedience to his Soveraigne, whom if by connivencie he shall let slip, or chastise with a light hand, what immunity may not traiterous Delinquents in lesser degrees expect, or challenge, after a sort, in equitie and justice?

Malis benefacere, tantundem est, ac bonis male facere.

Fellowship in misery causeth giddy, & by the clamor of a multitude, Justice is many times condemned.

9

If there were no Receivers, there would be no Theeves: Likewise if there were no harbourers of the Iesuits, it is to be presumed, that they would not trouble this Isle with their presence, therefore rigor must be extended against the Receiver, that the Iesuits may be kept out of dores, were it then indifferent justice, to hang up the Accessary, and let the principall goe free, namely to suffer the Priest to draw his breath at length, whiles the Entertainer of him under his Roof submits his body to the Executioners hands? without doubt if it be fit to forbeare the chiefe, it will be necessary to receive the second offendor into protection, wherewith a mischief must ensue of continuall expence, and scandalous restraint of so great a number.

10

Reputation is one of the principall Arteries of the Common-wealth, which *Maxime*, is so well knowne to the Secretaries of the Papacy, that by private Forgeries, and publique impressions of Calumniations, they endeavour to wound us in that vitall part; howsoever therefore some few of that stampe, being better tempered than their fellowes in defence of this present Governement, have not spared to affirme that *Tyranny* is unjustly

justly ascribed thereunto, for so much as freedome of Conscience after a sort may be redeemed for money, notwithstanding there want not many Pamphleters of their side, who opprobriously cast in our teethes, the converting of the penalty inflicted on Recusants, and refusers of the Oath of Allegiance, from the KING's EXCHEQUOR, to a particular Purse, sure wee cannot presume, that those Libellers may be diswaded from spitting out their venome maliciously against us, when they shall see their Priests mewed up without further processe of Law, for either they will attribute this calme dealing to the justice of their cause, the strength of their party, or patience; or that tract of time hath discovered our Lawes, importing over much sharpenesse in good pollicy to be thought fitter for abrogation, by *Non-usance*, than repealed by a publique decree.

It is not good to set price on that which being sold will bring repentance to the Seller.

Warinss is to be used with those, *Qui nec totam servitutem pati possunt, nec totam Libertatem.*

II

Moreover it is fore-thought, by some, that if these Seminaries be onely restrained, they may prove hereafter like a Snake kept in the bosome, such as *Bonner*, *Gardiner*, and others of the same Livery, shewed themselves to be after Liberty obtained in Queen *Maries* time, and if the losse of

Most men write good Turnes in Sand, and the bad in Marble.

those Ghostly fathers aggrieve them, it is probable, that they will take arms sooner, and with more courage, to free the living, than to set np a Trophie to the dead.

12

Fugitives that crave succour, use to lie much in favour of their cause and power.

Howsoever, the Iesuits band is known in their native soyl, to be defective in many respects, which makes them underlings to the Protestants, as in Authority, Arms, and the protection of the Lawes, which is all in all; Nevertheleſſe they insinuate themselves to forraigne Princes, favouring their party, with promises of strong assistance at home, if they may be well backed from abroad; To which purpose they have divided the inhabitants of this realme into foure sects, whereof ranking their troups in the first place (as due to the pretended Catholiques) they assumed a full fourth part to their property, and of that part againe they made a subdivision into two portions, namely, of those that openly renounced the establishd Church of *England*, and others, whose certaine number could not be assigned, because they frequented our service, our sacraments, reserving their hearts to the Lord God the Pope: The second party they alot to the Protestants, who

Relation *de Botero.*
It is a signe when a faction dares number their side, that there is an opinion conceived of sufficient strength, to attempt some Innovation.
In a Common wealth there ought to be be one head, for which cause a Prince must be vigilant, when divers factions arise, that by favouring one, and negiecting the other, instead of a head of all, he become onely a member of one Party.

retaine

retaine yet (as they ſay) ſome reliques of their Church: The third ranke and largeſt was left unto the Puritans, whom they hate deadly, in reſpect they will hold no indifferent quarter with Papiſtry: The fourth and laſt maniple they aſſigne to the politicians, *huomoni* (ſay they) *ſenza dio, & ſenza anima*, men without feare of God, or regard of their Souls, who buſying themſelves only in matter of State, retaine no ſenſe of Religion. Without doubt, if the Authors of this partition have caſt their accompt aright, we muſt confeſſe that the latter brood is to be aſcribed properly unto them; for if the undermyning of the Parliament houſe, the ſcandalizing of the King in print, who is Gods anointed, and the refuſall of naturall obedience, be marks of thoſe, that neither ſtand in awe of God or conſcience, well may the Papiſts boaſt, that they are aſſured of the firſt number, and may preſume likewiſe of the laſt friendſhip, when occaſion ſhall be offered; for the preventing of which combination, it is a ſure way, to cut off the heads that ſhould tie the knot, or at leaſt to brand them with a marke in the

Diſcontented minds in beginning of Tumults will agree, though their ends be divers.

A multitude is never united in groſe, but in ſome few heads, which being taken away, converteth their fury againſt the firſt movers of the Sedition

Certaine *Germans* in *Henry* the ſeconds time calling themſelves Publicans were marked with a hot iron in the foreheads, and whipped, being thruſt out in the Winter, with a prohibition that none ſhould receive them into their houſes, they dyed of hunger and cold.

forehead before they be dismissed, or (after the opinion of others) to make them unwelcome to the feminine sex, which now with great fervency imbraceth them.

These are for the most part arguments vented in ordinary discourse, by many who suppose a Preists breath to be contagious in our English *ayre.*

Others there are, who maintaine the second part of the Question, with reasons not unworthy of observante.

In favour of the second Division.

I

Rooted suspition, being violently handled, grow more warie, but not lesse obstinate.

DEath is the end of temporall woes; but it may in no wise be accounted the Grave of memory; therefore howsoever it is in the power of Iustice to suppresse the Person of a Man, the opinion for which he suffered (conceived truly

truly, or unttuly in the hearts of a multitude) is not subject to the edge of any sword, how sharpe or keene soever. I confes that the Teeth are soon blunted that bite only out of the malice of a singular faction, but where Poyson is diffused through the Veines of a Common-wealth, with intermixture of blood good and bad; separation is to be made rather by patient evacuation, than by present incision; the greatest biter of a State is Envy, joyned with the thirst of Revenge, which seldome declares it selfe in plaine colours, untill a jealousie conceived of personall dangers, breaketh out into desperate resolutions; hence comes it to passe, that when one male-contented member is grieved the rest of the body is sensible thereof, neither can a Preist or Iesuite be cut off, without a generall murmur of their Secretaries, which being confident in their number, secretly Arme for opposition, or confirmed with their Martyrs Blood (as they are perswaded) resolve by patience and sufferance to glorifie their cause, and merit Heaven. Do we not dayly see, that it is easier to confront a private Enemy, than a Society or Corporation? and that the hatred of a State is more

If conspirators have one sympathie of mind, the conspiracy is never wholy suppressed, so long as one of them remaineth.

Opinion settled in a multitude, is like *Hydraes* heads, which must be cured with searing and not by letting blood.

immortall

immortall, than the Spleene of a Monarchie, therefore except it be demonstrated, that the whole *Romane* City, which consists not of one brood may be cut off at the first stroke as one entire head, I see no cause to thinke our State secured, by setting on the Skirts of some few Seminaries, leaving in the mean time, a multitnde of Snarlers abroad, who already shew their teeth, and only wait opportunity to bite fiercely. I will not deny, that, what we feare, we commonly hate; provided alwaies, that no merit hath interceded a reconciliation; for there is great difference between hatred conceived against him that will take away the life, and him that may justly do it, and yet in clemency forbears to put it in effect; for the later breedeth reverend awe, whereas the former subjecteth to servile feare, allwayes accompanied with desire of innovations and although it hath been affirmed of the Church of *Rome*, *Quod Pontificium genus semper Crudele*, nevertheleſſe out of Charity let us hope, that all devils are not so black as they are painted, some, or perhaps many of them there are, whom conscience, or in default thereof, pure shame of the world will constraine to confesse that his Majesty most gratiously distinguisheth the Theorie of Popery

Clemency is a Divine instinct, and worketh supernall effects.

Gorticii Axiomata Politica.

pery; from the Active part thereof, as being naturally inclined, *Parvis peccatis veniam, magnis Severitatem commodare, nec pœna semper, sed sæpius pœnitentia contentus esse.*

Tacitus in vita Agricol.

2

Mistaking of punishments Legally inflicted, commonly proceeds from fond pitty, or the interest which we haye in the same cause; both which beget blind partiality; admit then, that the Papall side, affecting merrit by compassion, may be neerly touched with the restraint of their Seminaries, it cannot be denyed I hope, except they had the hearts of Tigers, that in humanity they will preferre their ease of durance, before the rigour of death; and albeit that *Parsons*, *Bellarmin*, and the Pope himselfe, constraine their spirituall Children, to thrust their fingers into the fire, by refusing the oath of Allegiance, notwithstanding we have many testimonies in judiciall Courts, and printed books, that the greater part of them are of that *Theban* hunters mind, who would rather have seen his Doggs cruell acts, than have felt them to his own cost.

When Traitors in evils will not choose the least, it is an argument that they are desperate, and breath nothing but extremity of mischiefs.

Garnett himselfe also in one of his secret Letters, Lamented, that after his death he should not be inrolled amongst the Martyrs, because that no matter which now is become a popish Aphorisme.

It was a precept of *Machivells*, to put on the maske of Religion

matter of Religion was objected against him; yet it plainly appeared in his demeanour, that he would gladly have survived the possibility of that glory, if any such hopes had remained. Neither is it to be presumed, that being in Prison, he would ever have conceived that wee durst not touch his Reverence, or that the Law was remisse which had justly condemned him, and left his life to the Kings mercy. It was the distance of the place and not *Parsons* that interpreted the sending over-seas of the Priests to be a greater argument of their innocency, than of his Majesties forbearance; For had Father *Parsons* himself been *Coram nobis*, his Song would rather have been of mercy than justice. It is truly said, that we are all instructed better by examples than precepts, therefore if the Lawes printed, and Indictments recorded, cannot controule the Calumniations of those that wilfully will mistake Treason, for Religion: By the execution of two or three of that back-biting number, I doubt not but the question may readily be decided.

So it pleased *Parsons* to cavill, of whom it might be truly spoken, *Malus malum pejorem esse vult, & sui similem.*

Gross and brutish errors are sooner reformed, than meaner escapes, for so much as the one cannot be defended without impudency, whereas the other admits some colour for excuse and pity.

——— *Namq; immedicabile vulnus,*
Ense recidendum est, Ne pars sincera trahatur.

3 To

3

To dally with pragmaticall Papists, especially with those that by their example and Counsell pervert his Majesties Subjects, I hold it a point of mere injustice; For, what comfort may the good expect, when the bad are by connivency free to speake, and imboldened to put their disloyall thoughts into execution; For explaining therefore of my meaning, it is necessary to have a regard unto the nature of the Kings Liege-People, that are to be reformed by example of justice, and others, Forraigners, who will we, nill wee, must be censurers of our actions; It hath been truly observed that the Nations of *Europe*, which are most remote from *Rome*, are more superstitiously inclined to the dreggs of that place, than the neerer neighbours of *Italy*, whether that humour proceeds from the Complexion of the *Northern* Bodies, which is naturally more retentive of old Customes, than hotter Regions; or that the vices of the City, seated on seven Hills, are by crafty Ministers of that See, concealed from the vulgar sort, I list not now discusse; but most certaine it is, that the people of this Isle exceed the *Romans* in zeale of their profession; In so much that in *Rome* it selfe, I have

To bestow benefits on the bad, maketh them worse, and vilifieth the reward of the vertuous.

have heard the *English* Fugitives taxed by the name of *Pichia pelli Inglesi*, Knock-brests, *id est*, Hypocrits; now as our Countrey-men take surer hold-fast of Papall traditions, than others; so are they naturally better fortified with a Courage to endure Death for the maintenance of that cause; for this Clymate is of that temperature out of which *Vegetius* holdeth it fittest to chuse a valiant souldier, where the Heart finding it selfe provided with plenty of blood to sustaine suddain defects, is not so soon apprehensive of death or dangers, as where the storehouse of bloud being small, every hazzard maketh pale cheeks and trembling hands: *Angli* (say Ancient writers) *bella intrepidi, nec mortis sensu deterrentur*; And thereunto *Botero* the *Italian* beareth witnesse in his Relations; Many strangers therefore coming out of Forraigne parts among the rarities of *England* desire to see whether report hath not been too lavish, in affirming that our condemned persons yeeld their bodies to death with cheerfullnesse, and were it not that by daily experience we can call our selves to witnesse of this truth, I could produce the Reverend Iudge *Fortescue*, who in commendation of our *English* lawes, made suitable (as he well observeth) to the

Valour is often overcome by weakness, but being too much prized it turneth to unbridled furies.

Our Lawes [illegible] out of these good Customes, whereunto the people is naturally inclined.

the imbred Conditions of the inhabitants of this soile, avoweth, that the *English* people in tryall for Criminall causes, are not compelled by tortures to confesse as in other Nations it is used, for as much as the quality of the *English* is known to be lesse fearfull of death than of torments, for which cause if the torments of the Civill Law were offered to an innocent person in *England*, he would rather yeeld himselfe guilty, and suffer death, then endure the horror of lingring pains. *Insulani plerunque Fures* (saith one) and so true it is, that this Countrey is stained with that imputation, notwithstanding that many are put to death, to the end that others by their fall, might learne in time to beware; If then it doe appear that terrour prevailes not, to keep men from offences which are condemned by Law, and Conscience, what assurance can there be to scare those, who are constantly satisfied in their minds, that their sufferings are either expressely, or by implicitation for matter of Religion and health of their Souls; in such case to threaten death to *English*-men, *Quibus nihil interest humine sublimi ne putrescant*, is a matter of small consequence, *Purpuratis Gallis, Italis, aut Hispanis, ista minitare*, to a setled resolution it boots not to shew the dreadfull

Use to see men die with resolution, taketh away the feare of death, for which purpose the Romans used the fights of their Gladiators.

The Heretickes called *Publicans* when they were whipped they took their punishment gladly, their Captain *Gerrard* going before them and singing, *Blessed are you when men doe hate you.*

Andromachen. Si vis vitam minitare. Seneca Trage.

dreadfull visor of death; Menaces to prolong a wearisome life, prevaile much more in such cases. Rightly did *Clement* the eighth consider, that by burning two *English*-men in *Rome* for supposed Heresie, he rather impaired his Cause than bettered it, insomuch that many present at the resolute death of Mr. *Marsh*, who was brought to dust in *Campo di Sancta Fiore*, spared not to proclame himself a Martyr, carried away of his ashes for a Relique, and wished their soules in the same place with his; which newes brought to the Popes eare, caused him (as it was bruited about *Rome*) solemnly to protest, that none of the *English* Nation should publiquely from that time be consumed with fire: on the other side if we read the volumes written in praise of their Priests Constancy, the *Martyrology* or *Callender* of *Martyrs*, and path way of Salvation as it were, chalked out unto the Papists, by sacrifizing their lives for the Pope, we shall finde that by taking away of one, we have confirmed and united many, whereof I could give particular instance, if I thought any scruple were made in that point. As for forraigne parts which hold with the Papall Supremacy, it is cleer that they will be severe, and partiall judges in this cause; for albeit that here in *England*, It

Worldly desires may be quenched with godly meditations, but heavenly hopes cannot be abated by earthly punishments.

It is a point of wisdome to maintain the truth with as little disputation as may be, lest a good cause be marred with ill handling.

It is well knowne to all true and loyall ſubjects, that for matter of *Roman* doctrine, no mans life is directly called into queſtion? but that their diſobedience in reaſon of State is the motive of their perſecution; Nevertheleſſe where a great Canker of Chriſtendome is rooted in a contrary opinion, and things in this world are for the moſt part eſteemed by outward appearance, this Land cannot eſcape malicious ſcandalls, neither ſhall there be want of Colleges to ſupply their Faction with Seminaries; Therefore again and again, I ſay, that if the ſtate of the queſtion were ſo ſet, that it were poſſible by a generall execution of the Prieſts, and their adherents, to end the controverſie, I could in ſome ſort with better will, ſubſcribe thereunto; But ſeeing I finde little hope in that courſe, I hold it ſafer to be ambitious of the victory, which is purchaſed with leſſe loſſe of blood; and to proceed as *Tully* teacheth his Orator, who when he cannot wholly overthrow his Adverſary, yet ought he to doe it in ſome part, and withall indeavour to confirm his owne party in the beſt manner that may be.

Truth ſeldome prevaileth with the partiality of the people, which being ignorant is carried away with the outward ſemblance of things.

It is hard to make a rule ſo general, againſt which difference of Circumſtance may not except.

4

He that forbeareth to ſow his ground in expectance of a good Winde or favorable Moon, commonly hath a poore

cropp and purse; so shall it fare with this State; if private whisperings of discontented persons, that never learn't to speak well, be too nicely regarded, yet ought they not to be sleightly set at nought, lest our credit grow light, even in the ballance of our dearest friends. The Papisticall Libellers inform against us, as if we were desirous to grow fat with sucking of their bloud, the very walls of their Seminary College at *Rome* are bedawbed with their lying Phansies, and in every corner the Corner-creepers leave some badge of their malicious spleen against us; crying out of Cruelty and Persecution; but if the penalty of death be changed into a simple indurance of prison, what moat in our eyes can they finde to pull out? or with what Rhetorick can they defend their obstinate malapartness, which with repaying us ill for good, deserve to have coales of indignation poured upon their heads? *Visne muliebre Consilium?* said *Livia* to *Augustus*; Let severity sleepe a while, and trie what alteration the pardoning of *Cinna* may procure; The Emperour hearkned to her Counsell, and thereby found his Enemies mouths stopped, and the fury of of their malice abated. Some there are perchance that will tearm this Clemency innovation, and vouch the President

He that is calumniated by many, is in danger, first to be suspected by his friends, and shortly to be condemned if the slander continue.

The Counsel takes best effect that is fitted to the nature of times and persons.

dent of that City, which permitteth none to propound new Laws, that had not a cord about their necks ready for vengeance, if it were found unprofitable; but let such Stoicks know, that there is great difference betweene the penning of a Law, and advice giving for the manner of executing it; neither (by their leaves) are all innovations to be rejected, for divine *Plato* teacheth us, that in all Common-wealths upon just grounds, there ought to be some changes, and that States-men therein must behave themselvs like skillfull musicians, *Qui artem musices non mutant, sed musices modum.*

Those Changes of States are safely made which reserving most of the Antient form, betters it and reduces the defects into order.

5

That an evill weed groweth fast, by the example of the new Catholique increase, is clearly convinced; but he that will ascribe this generation simply to his Majesties heroicall vertue of *Clemency*, argueth out of fallacy, which is called *Ignoratio Elenchi*; was not the zeale of many cooled towards the last end of Queen *Elizabeths* Raigne? hath not the impertinent heat of some of our own side bereft us of part of our strength, and the Papacy with tract of time gotten a hard skin on their Consciences?

The Church is most zealous, when Persecution is fresh in memory; when those times are forgotten, we grow to loath that which wee enjoy freely.

Parva metus primo, mox sese attollit in altum?

But if wee will with a better insight behold how this great quantity of spaun is multiplyed, we must especially ascribe the cause thereof to their Priests, who by their deaths prepare and assure more to their sect, than by their lives they could ever perswade; It were incivility to distrust a Friend, or one that hath the shew of an honest man, if he will frankly give his word, or confirme it with an Oath, but when a Protestation is made upon the last gaspe of life, it is of great effect to those that cannot gainesay it upon their owne knowledge.

In this case the question is not so much of the truth of it, as who shall be Judge, and what Censure will be given.

The number of Priests which now adayes come to make a Tragicall conclusion is not great; yet as with one Seale many Patents are sealed; so, with the losse of few lives numbers of wavering spirits may be gained, *Sanguis Martyrum, Semen Ecclesiæ*; And though those Priests having a disadvantagious cause, are in very deed but counterfeit shadowes of Martyrs unto a true understanding, yet will they be reputed for such, by those that lay their Soules in pawne unto their Doctrine, with whom if we list to contend by multitude of voices, we shall be cried down without all peradventure, for the gate of their Church is wide, and many there are that enter thereinto.

6. By

6.

By divers meanes it is possible to come to one and the selfe same end; seeing then that the summe of our well-wishing is all one, namely that Popish Preists may have no power to do harme, it is not impertinent to try sundry pathes, which may lead us to the perfecting of our desires. Politicians distinguish *inter rem pulicam constitutam & rempublicam constituendam*, acording to the severall natures whereof Statists are to dispose of their Counsells and Ordinances; were now the Rhemists and Romulists new hatched out of the shell, the former course of severity might soon bury their opinions with their persons, but since the disease is inveterate, variety of medicines is judicially to be applyed. The *Romans* did not punish all crims of one and the selfesame nature with extremity of death; for some they condemned to perpetuall prison; and others they banished into an Island or some remote Country; even in the case of Religion they were very tender to dip their fingers in blood; for when *Cato* was Consull, (and it seemed good unto the Senate to suppresse with violence the disordered Ceremony of the *Bacchanalls*, brought by a strange Priest into the City) he withstood that sentence, alleging that there

In the first 11 years of Q. *Eliz.* it was easier to subdue Popery, than now, for then they feared to irritate the State, not knowing how farre severity might extend, now knowing the worst, they are resolved *Agere & Pati fortia.*

was nothing ſo apt to deceive men as Religion, which alwaies pretends a ſhew of divinity: and for that cauſe, it behoved to be very wary in chaſtiſing the profeſſors thereof, leſt any indignation ſhould enter into the peoples minds, that ſome-what was derogated from the Majeſty of God. Othere (more freely) have not ſpared to place Religion, (I mean that Religion which is ignorantly zealous) amongſt the kinds of Frenzie, which is not to be cured otherwiſe than by time given to divert, or qualifie the fury of the conceipt,

Vulgus eſt morioſum animal, quod facilius duci, quam cogi poteſt.

Tantum Religio potuit ſuadere malorum.

7

Many Partizans encourage the faint-hearted, and when an enemy cannot prevail againſt number, his thoughts are not how to offend, but how to make a ſafe retreat.

Howſoever in valuing the power of a City or ſtrength of arguments, quality and worth is to be preferred before number, nevertheleſſe where the uttermoſt of our force is not knowne, it imports much to have it conceived; That the multitude ſtands for us, for doubts and ſuſpicions caſt in an enemies way evermore makes things ſeem greater, and more difficult than they are indeed; we have by Gods mercy the Sword of juſtice drawn in our behalfe, which upon ſhort warning is able to diſunite the ſecret underminers of our quiet; we have a King zealous for the houſe of the Lord, who needeth

deth not to feare lesse successe in shutting up of Priests, than our late Queen had, in restraining them in *Wisbich* Castle, where lest their factious Spirits should grow rusty, they converted their Cancer to fret upon themselves, and vomitting out Gall in *Quod-libets*, shewed that their disease was chiefely predominant in the spleen; what tempests they have raised in their Colledge at *Rome*, their own books, and many travellers can witnesse; the storme whereof was such, that *Sixtus Quintus* complained seriously of the vexation which he received oftner from the English Scholars, than all the Vassalis of the Triple Crowne; and untruly is the Magistrate noted of negligence or overmuch security, that layeth wait to catch the Foxes, and the little Foxes which spoyle the Vineyard, though afterwards without further punishment he reserve them to the day wherein God will take accompt of their Stewardship; for if *Aristotles* City, defined to be a society of men assembled to live well, be the same which in our Law, hath reference to the maintaining of the people in Peace, so long as we tast of the sweet of a peaceable Government, we cannot say but that we live well, and that the City consisting of men and not of walls is happily guided.

More Priests may be shut up in a yeare than they can make in many.

Desire of innovation is rash and contentious, and therefore can hardly agree of a head.

Peace is allwayes to be wished, Provided that under the canker thereof, there be not a mischief entertained worse than War itselfe.

8

An oath is of force, so long as it is though: lawfull, when that opinion is crazed, it doth more hurt than good.

An Oath is a weake bond to containe him that will for pretended conscience sake hold no faith with heretiques, or by absolution from a Priest thinketh himself at liberty to fly from any promise or protestation whatsoever; therefore when I remember that *Watson* the Priest, notwithstanding his invectives against the Iesuits, gained liberty to forge his traiterous inventions, and had others of his society in the complot, I judge it safer to make recluses of them, than to suffer such to dally with us by books, and some idle intelligences cast abroad only as a mist to bleare our eyes. But how shall we find the means to apprehend those disguised Romanists that borrow the shape of Captaines, Merchants, Gentlemen, Citizens, and all sorts of people, and by equivocation may deny themselves to be themselves? In answer to this question, I will first shew the reason why they are not pursued and taken, and hereafter make an overture how they may be bolted out of their hutches; the nature of Man howsoever in hot blood, it be thirsty of revenge, in a cold temper it hath a kind of Nausea as I may call it, or a distaste of taking away the lives, even of the

One man in another beholdeth the Image of himselfe, and thereby groweth compassionate and sensible of that which may fal to himselfe.

Nocent

Nocent, inſomuch that in all Siſes and Seſſions, an offender can hardly be condemned, whom the fooliſh pitty of man will not after a ſort excuſe, with laying ſome imputation on the Iudge, part on the Iury, and much on the Accuſer; and ſuch is their blind affection, that the priſoner who perhaps was never recommended for handſomeneſſe, will be eſteemed of them, for one of the propereſt men in the company; from hence it comes that the name of Serjeant, or Purſevant is odious, and the executioner, although he be the hand of juſtice, is eſteemed no better than an enemy of mankind, and one that loſt honeſty and humanity in his cradle; Reverend Maſter *Fox* was wont to ſay, that ſpies and accuſers were neceſſary members in a Common-wealth, and deſerved to be cheriſhed, but for his own part he would not be any of that number, or wiſh his freinds to affect ſuch imyloyments; and albeit that the Law permits, and commands every man to apprehend a felon, doe we not ſee commonly very many content to ſtand by and looke on while others performe that office? likewiſe it is evident, that if ſuch as are tender of their reputations, be very ſcrupulous perſonally to arreſt men, for civill actions of debt, they will be more unwilling inſtruments of draw-

What men doe unwillingly is never done effectually.

drawing their bodies to the Rack or the Gallowes, especially when there is any colour of Religion to be pretended in their defence; the diversity of mens faces is great, but the difference of their minds in this case is more variable, wherein the meanest have thought as free as the highest; besides this, there are too many of the blind commonalty altogether Popish, though indeed they make honourable amends for their treason; verily I know not what misguyding of the mind it is, that maketh men forecast the possibility of alteration in matters of Religion, and for that respect they are exceeding backward in discovery, and laying hands on Seminaries, yea and are timorous in enacting sharpe Lawes against them, as those that silently say amongst themselves

when many tumultuous persons assault, there will be a fray.

Sors hodierna mihi, cras erit illa tibi.

Some also survive? Who, remember that in Queen *Maries* time, the Protestants alleged a text, that the tares should not be plucked up before harvest, nay shall I speake a buggs word, there is no small number that stand doubtfull whether it be a gratefull worke to crosse Popery, or that it may be done safely without a foule aspersion of Puritanisme, or a shrewd turne of their labours, at some time or other, by which unhappy ambiguity it comes to passe, that these

Ani-

Animalia Amphibia (the Prieſts I mean) that prey on the Souls and bodies of either ſex, unatached, revell where they liſt, though they be more ſeen than a man dancing in a Net; how much fitter were it for us couragiouſly to invite them to our party, by preaching or confuting them by writing, and unto the State wherein we ſtand, wiſely to apply the ſaying of the *Aſſirian* King to his Souldiers, You are fools (quoth he) if there be any hope in your hearts to redreſſe ſorrow by flight, or rather indeavour to make them fly that are the cauſers of your griefe, aſſuring your ſelves, that more periſh in flight, than in the Battaile, even as many ſeeking to meet the Papiſts halfe way diſcomfort our own party.

Vertue neither prayſed nor rewarded waxeth cold.

9

It followeth now (according to the Method preſcribed) that an overture be made to get the Ieſuits and their ſhadowes the Preiſts, into poſſeſſion; it hath been heretofore recited, that the unwelcome name of a blood-ſuccour, a buſibody, or a Puritane, hath been ſhreud Scar-crowes unto many honeſt minds; by abrogating therefore of thoſe or ſuch like imputations many will bee ſtirred up to undertake the apprehending of the adverſaries unto the truth, eſpecially when for their pains and time imployed

An ill name given to a good thing diſcourageth men from medling with it.

Wise men doe forecast how to doe most with lest noise.

imployed, they shall deserve and have the title of good Patriots, dutifull Subjects, and zealous Christians; how ready is every common person to carry a malefactor to the stocks, rather than unto the Gaole or execution? and doubtlesse they will be no lesse forward to attach a Priest, when they are assured that the worst of his punishment shall be a simple restraint within the walls of an old Castle. A certain kind of people there is, with whom money playes a more forcible Orators part, than any perswasion of the dutifull service which they owe to the Commonwealth, these men will not be negligent to give intelligence, and also to procure it faithfully; Provided that reward may help to line their threadbare purses, and exempt them from need to sell liberty unto Seminaries; and where assurance of gaine is propounded for discovery, what master or house-keeper will trust his servant with keeping of his Priest, or sleepe quietly while he is engaged to the danger of a Mercenary? I remember that in *Italy* it was often told me, That the bountifull hand of Sir *Francis Walsingham* made his Intelligencers so active that a Seminary could scarcely stir out of the gates of *Rome* without his privity, which successe by mediation of

gold

gold may as readily be obtained from *Syvill*, *Vallidolid*, *Doway*, *Lovane*, *Paris*, and any other places, and by forewarning given of their approach, they may be waited for at the Porrs, and from thence soone convaied to a safe lodging. But whence shall the stream flow that must feede this bounty? it is a doubt easily satisfied, if some thousands of Pounds out of the Recusants penalties be reserved in stock, and committed by his Majesty unto the disposition of zealous distributers, who will not be afraid to conclude *Perdat fiscus, ut capiat Christus*; neither need we seek any further succour to repaire decayed Castles, and therein to defray the charge of the Preists, with a sure guard to keepe them, than the aforesaid forfeitures that by the Iustice of the Law may be collected; which course if ever it come happily to be entertained, and that Recusancy cease to be an ignominious prey to the subject, the proceedings for Religion shall be lesse blamed, and perhaps altogether unjustly accused by any graceless *Gretzerus* or *Lacedæmon Iohannes*, tincting their pens in Gall and Vineger; for besides occasion of Calumniation given by sutes of that nature, it is evident that many Recusants that would be indicted for the

Particuler officers must be appointed, what is to all is commonly performed by none.

King

The service done for the Kings proper use, hath his Warrant and Countenance, but when a private man hath the gaine, neither reward nor bearing out can be expected; and by consequence Recusants are free.

King, and the effecting the Project aforesaid, shall escape without punishment, and be borne out against the power of a private person; begging to no other purpose, than hath heretofore been used: and albeit the penalty be rated at 20 l. a moneth, yet was it never the Law-makers intent, that such as were not able to pay so great a summe, should go scot-free, but that according to the proportion of their ability, they should doe the penance of their Purses, whereas now if the voice of the people (which is said to be the voice of God) is to be credited, the poorer sort is skipt over, as if they owed no soules to God, nor duty to their Soveraign. A poor Man (saith one) is to be pittied, if he offend through necessity, but if he doe amisse voluntarily, he is more severely to be chastised, for so much as wanting friends, and meanes to bear him out, it sheweth that this fault proceeds from presumption.

10

Let us now pre-suppose, that all the whole Regiment of *Jesuits* and *Seminaries* were lodged in safe custody, may we then perswade our selves, that Popery will vanish like a dumbe shew; I am cleerly resolved that though it receive a great eclipse, notwithstanding with-

without other helps the Kingdome of *Antichriſt* will onely be hidden, as a weed that ſeems withered in the Winter, and is ready to ſprout out with the Spring. Temporall armes are remedies ſerving for a time, but the Spirituall ſword is permanent in operation, and by an inviſible blow works more than mortall man can imagine. The word of God carrieth this two-edged weapon in his mouth, which is to be uſed by faithfull Miniſters of the Church, whom pure zeale, without reſpect to worldly promotion, or perſons, ought to encourage: Of Iudges the Scripture ſaith *Eſtote fortes*; and daily we ſee, that ſitting in their judiciall ſeats, God inſpireth them with greater courage, than when, as private perſons, they are to give their opinions; no leſſe is the power of the Holy Ghoſt in his ſervants, that out of the Pulpit are to deliver his Ambaſſage; let them therefore not be diſmaid to ſpeake out plainly, and tell the truth, without running a middle courſe between heat and cold, unprofitable diſcanting upon the Scripture, with an old poſtile, or for want of better matter waſt the poore time ſhut up in an hour-glaſs, with skirmiſhing againſt the worthy Pillars of our owne profeſſion: Rumor which is ever ready to take hold of evill, hath raiſed

Medicines that work in the ſpirits of men, are of greater force, and cure more ſurely than outward Plaiſters.

Speech is the interpreter of the minde, therefore who ſo uſeth in Divine matters to ſpeak reſervedly, and in a double ſenſe, he will be ſuſpected to have a double heart and unfit to teach them that truſt him not.

raised a secret, though (as I hope) a causless suspicion, that there should be some combination underhand, by changing the state of questions, to put us in our old dayes to learn a new Catechisme, and when they have brought us out of conceipt with the Reverend Interpreters of the Word, to use us then as the Wolves (mentioned in *Demosthenes* Apologie) handled the Shepherds when they had delivered up their Dogs. Most sacred was that Speech of our gracious King, concerning *Vorstius*, *He that will speak of* Canaan, *let him speak the language of* Canaan. How can we draw others to our Church, if we cannot agree, where, and how to lay our foundation? or how may wee clense the Leprous disease of dissention, which the Papists which are least assured to themselves, and most doubtfull of their Salvation, are not ashamed to ascribe unto many of us? I would not have ministers indiscreet like Doggs to barke against all, whether they know or know them not, I like better the opinion of *Aristotle*, who adviseth those that stand in guard of a place, to be curst onely to such as are about to endammage the City: If Pursevants or other Civil Officers, would learne to keep this rule, they might go about their business with much credit. The imagi-

A good Pastor is the Physician of the State, and ought to apply his doctrine, according to the tendernes or hardnes of the Conscience, for want of which discretion, some mens zeal hath done hurt.

magined feare of inviting the *Romiſh* Faction by force to deliver their Goſtly Fathers out of Priſon, moves me not a whit; for I cannot beleeve that they eſteeme them at ſo dear a price, as they would runne the hazard, by freeing others out of hold, to put themſelves into their places. Some will ſay that a man of Straw is a head good enough for a diſcontented multitude; That the Papiſts are very chollerique it appears ſufficiently by their writings, yet it hath pleaſed God to ſend thoſe curſt Cowes ſhort hornes; that when they ſhould not finde a man of ſufficiency to ſerve their turn, they were faine to doe homage to *Garnetts* ſtraw, forgetfull as they are that ſuch ſtubble cannot endure the tryall of fire: But unto us, that ought to be Doers, as well as Profeſſors of the Goſpell, let this remaine as a memorable Theorem; *Religion is the Mother of good order, Good order is the cauſe of proſperous Fortune, and happy Succeſs in all Counſells, and enterpriſes*, Therefore in what eſtate ſoever there wanteth good order, it is an evident Argument that Religion goes backward.

False miracles & lying newes, are the food of ſuperſtition, which by credulity delude ignorant people.

II

I have ever held it for a kinde of God which is the great Lawmaker, by his Lawes prevents ſins, to the end puniſhments may be inflicted on it juſtly; as to avoid Idolatry, he forbiddeth making of Images; He that cannot live chaſt, let him marrie, *&c.*

Injuſtice to omit the execution of mean Lawes, made to prevent the effects of Idleneſſe, and then to apply main extremitie of the ſword, when the prooling habit gotten by that vice comes to light; no leſſe is the courſe uncharitable (with pardon for this preſumption be it ſpoken) when we ſpare them that have no Religion at all, and cenſure thoſe that can give an accompt of ſomewhat tending to that purpoſe. He that is in miſery muſt be born withall if he ſpeake miſerably, and when the child from his mothers breſt hath ſucked nothing but Popery, a man had need to be angry with diſcretion if he hear him ſpeake in the voice of a Papiſt. God calleth ſome by miracle, but the ordinary means is his Word; if that means in any place of this Land be wanting, of what Religion is it likelieſt the people will be? I ſuppoſe that few men will gainesay my aſſertion, that outward ſence will direct them to Popery, which is fuller of Pageants than of ſpirituall doctrine; and what is the cauſe that after ſo many years preaching of the Goſpell, the Common people ſtill retain a ſcent of the *Roman* perfume? the Cauſe is for that the formall obedience of coming to Church hath been more expected than the inſtruction of private families, publique Cate-

Catechizing is of great use, but the first Elements thereof are to be learnt at home, and those things which we learn from our Parents, sticke more surely in our mindes; what was the cause why the *Spartans* continued their Government so many Revolutions of times, without mutation? Histories record, that learning their Country Customes from their Infancy, they could not be induced to alter them; And in this our native soile we perceive, that the Common Lawes which rely on antient Customes, are better observed than late Statutes, of what worth soever they be: So doth it fare with the poore people, which being once seasoned with the old dreggs of Papisme, will hardly be drawn from it, till the Learning of the true Faith be growne to a Custome. I will prescribe no order nor Officers, to effect this; but I suppose that the antient laudable course, by the Bishops confirmation, will not be sufficient to fulfill so great a taske, the Minister must and ought to be the Principall and immediate hand to give assistance to so gracious a worke; and in case any be defective in their duty, the Reverend BISHOPS may take notice thereof in their severall Visitations.

A man is said to know so much as he remembreth, and no more; and we remember best, what we learn in our youth, therefore if we will be wise when we are old, we must be taught when we are young.

Out of Oeconomicall Government, the diversity of States grow, & such as a Princes house, is the State of the Commons for the most part: by which reason a Prince may by the Survey of his House, have an aime how the Commonwealth is affected.

By the Lawes there were Tything men, who gave accompt for ten houſholds: Some ſuch Officers might be good in this caſe; for I hold the breaking of the Sabbath to be the ruine of our Religion.

Perhaps it will be thought a hard taske to conſtrain old people to learn the *A. B. C.* of their Chriſtian beliefe, but how hard ſoever it be, I hold it no incivility to prepare people of all ages for the Kingdome of Heaven. By the order contained in the Book of Common Prayer, on Sundays and Holydays, halfe an hower before evenſong the Curate of every pariſh ought to examine children ſent unto him, in ſome points of the Catechiſme; and all Fathers, Mothers, Maſters and Dames, ſhould cauſe their Children, Servants, and Prentiſes, to reſort unto the Church at the time appointed, there to heare and be obediently ordered, by the Curate, untill ſuch time as they have learnt all that in the ſaid book is commanded, and when the Biſhops ſhall appoint the Children to be brought before them, for their Confirmation, the Curate of every Pariſh ſhall ſend or bring the names of thoſe Children of his Pariſh which can anſwer to the queſtions of the Catechiſme; and there ought none to be admitted to the Holy Communion, untill ſuch time as he can ſay his Catechiſme, and be confirmed. Many times I have ſtood amazed, to behold the Magnificence of our Anceſtors buildings, which their Succeſſours at

It were fit alſo that they learnt how to diſtinguiſh the common grounds of Popery, whereby the Prieſts deceive poor people.

this day are not able to keepe up, but when I cast mine eyes upon this excellent Foundation laid by the Fathers of the CHURCH, and perceive their Children neglect to build thereupon, with exceeding marvell, I rest almost besides my selfe, for never was there better ground-plot layd, which hath been seconded with lesse successe: It was not the Bull of *Pius Quintus* on the Bishop of *Londons* Dores, or the forbearing to hang up Priests that have wrought this Apostacy, but the Idlenes and insufficiency of many teachers, conspiring with the peoples cold zeale, that hath beene the Contriver of this Webb. Vntill the eleventh yeare of Queen *Elizabeths* Raign, a Recusants name was scarcely knowne, the Reason was because that the zeale begotten in the time of the *Marian* Persecution was yet fresh in memory, and the late Persecutors were so amazed with the sudden alteration of Religion, that they could not chuse but say, *Digitus Dei est hic.* In those dayes there was an emulation betweene the Clergy and the Laity; and a strife arose whether of them should shew themselves most affectionate to the Gospell; Ministers haunted the Houses of

He that knows not the true cause of an evil, cannot help it but by Change, which is a dangerous guide of a State.

Where Good men are afraid to call a vice by the Proper name, it is a sign that the vice is common, and that great persons (whom it is not safe to anger) are infected therewith.

worthiest men, where Iesuits now build their Tabernacles; and poor Countrey Churches were frequented with the best of the Shire; the word of God was precious, Prayer and Preaching went hand in hand together, untill Archbishop *Grindalls* disgrace, and *Hatefields* hard conceipt of Prophecying brought the flowing of those good graces to a still water; the name of a Papist smelt ranck even in their owne nostrills, and for pure shame to be accompted such, they resorted duly both to our Churches and Exercises; but when they saw their great *Coriphæus Sanders* had slily pinned the names of Puritans upon the sleeves of the Protestants that encountered them with most courage, and perceived that the word was pleasing to some of our own side, they took heart at grasse, to set little by the service of God, and duty to their Soveraign.

De Schism. Anglicano & vis. Mon. Eccles.

Therewith start up from amongst us, some that might have been recommended for their zeale, if it had been tempered with discretion, who forerunning the Authority of the Magistrate, took upon them in sundry places and publiquely to censure whatsoever agreed not with their private conceipts,

Some think that if these mens zeale had by order been put to imploy it selfe otherwaies, and a taske set them to doe some good and memorable thing in the Church, they might have been reformed, or made harmlesse by diversion.

with

with which grosse humours vented in Pulpits and Pamphlets, most men grew to be frozen in zeal, and in such sort benummed, that whosoever (as the worthy Lord Keeper *Bacon* observed, in those dayes) pretended a little spark of earnestnesse, he seemed no lesse than red fire hot, in comparison of the other. And as some fare the worse for an ill neighbours sake, dwelling beside them, so did it betide the Protestants, who seeking to curbe the Papists, or reprove an idle drone, were incontinently branded with the ignominious note of Precisian, all which wind brought plenty of water to the Popes Mill, and there will most men grinde where they see apparance to be well served.

Head-strong Papists are not easily subdued, yet must they not be suffered to grow to a Faction, *Discretio pro lege discernere quid sit res*, must lay the burthen in the right place.

12

If without great inconveniency, the Children of the Papists could be brought up out of their Company, it were a happy turn, but I finde it to be full of difficulty; there is provision made to avoid Popish School-masters, but there is no word against Popish School-mistresses, that infect the silly Infants while they carry them in their arms; which moveth me to suppose that the former proposition to examine how Children and servants are brought up, and truly to certifie the list of the Communicants and Recusants, will be the readiest

Without Reformation in this point, Popery will still encrease, but as all vertuous enterprizes are difficult, so is this most intricate.

A wise house-holder will cast up his reckonings to see what losse or profit he hath made in a year.

means to let his Majesty know the yearly increase or decrease of the Church in every Diocesse. And whosoever shall send his Children, or any of his Majesties subjects to be placed in Monasteries or Seminary Colleges, or Popishly to be brought up in forraine parts, I thinke that for punishment both one and the other worthily might be diffranchised of the priviledge due to English men, so farre forth as any good by the Laws may discend to them, but not to be exempted from the Penalties thereof in the regall jurisdiction of the Crowne. I know well that contradiction is odious, and makes a man seem ambitious to be thought more understanding than others, in which case the *Spaniard* useth only to tearm him presumptuous, whom he would call foole, if civility would bear it; but in my defence, I hope it shall suffice againe to revive my former protestation, that I disconrse by the way of Proposition, rather than arrogantly of defining any thing, with pardon therefore may I be permitted to say, that the first easy Law of twelve pence, inflicted on him that could not give a reasonable excuse for his absence from Church on Sundayes, was one of the best ordinances that hath hitherto been enacted; but while we sought to make new Statutes, savouring of more severity

Guevara Epist. Aureæ.

The Law which took immediate notice of an offence gave a quick redresse, and corrected the poor as well as the rich.

rity, we neglected the old, and were loath to execute the new, for it is a certaine rule, that whoſoever in policy will give liberty, and yet ſeem to ſuppreſſe a crime, let him procure ſharpe Lawes to be proclamed, which are neceſſary only for ſome times, and rare occaſions, to be put in execution, but not to be an ordinary worke for every day of the weeke; dayly uſe likewiſe teacheth us, that it is leſſe grievous to puniſh by an old Lawe than by a new, for ſo much as truth it ſelfe ſeldome gets credit without proof, and it is hard to free the people of ſuſpition, that new Lawes are not rather invented againſt the particular perſons and purſes of men, than againſt their corrupt manners; by force of which reaſon I am induced to conceive, that the old uſe of the Church contained in good nurture, and Eccleſiaſticall cenſures, will much more prevaile to muzzle Popery, than any freſh deviſes whatſoever; neither do I thinke it blame-worthy to affirme, that our Cauſe hath taken harme by relying more on the temporall than the ſpirituall Arms, for while we truſted that capitall puniſhments ſhould ſtrike the ſtroke, we have neglected the means which would for the moſt part have diſcharged the need of ſuch ſeverity; the

Sharpe Lawes that ſtand upon a long proceſſe, after a manner ſeem to diſpence with the vice.

The allegiance to God ought to precede the temporall obedience, for if the firſt may be obtained, the ſecond will follow of it ſelf.

the oath of Allegiance is not offered generally to ſervants and mean people, who if they had taken the Oath, by abſolution of a prieſt might recoyle from it, or change their opinion at leaſure, without any ready means to diſcover their Legerdemaine, that oath I feare will not be often preſſed, and to them that ſhift from place to place, how can it be tendred? the principall Papiſts now cover themſelves in the crowd of the multitude, but if we can diſcover the affection of the multitude they will eaſily be unmasked, and being ſingled out reſt aſhamed of their nakedneſſe (which under correction of better judgment) may be effected, if every new commer to inhabit in a Town, and ſervants newly entertained, within a week or fourteen dayes, be cauſed to repaire to the Miniſter, there in preſence of the Church-wardens and other honeſt men, to ſubſcribe unto ſuch briefe and ſubſtantiall Articles concerning faith and allegiance as ſhall be according to Gods word and juſtice ordained to diſtinguiſh the ſheep from the Goats; in forraine Countries every hoſt is bound to bring his gueſt before an Officer, there to certifie his name, with the occaſion of his Comming, and intended time of aboad in thoſe parts, and in caſe he ſtay longer, he muſt againe

This courſe will diſcover more than the Oath of Allegiance, and prevent many from falling off by reaſon of the quick diſcovery.

gaine renew his licence; so curious and vigilant are they also to keep their Cities from infection, that without a certificate witnessing their comming from wholsome places, they may not escape the *Lazaretto*; no lesse ought we to be watchfull to prevent the contagion of our Souls, than the other Nations are of their bodies. Every thing is hard and scarcely pleasing in the beginning, but with time some such course may be readily put in execution, which I propound rather as matter for better heads to work on, than peremptorily to be insisted on in the same termes; but lest any charge me with temerity, that where I desire to know the multitudes inclination, by the means aforesaid, I satisfie my selfe with their Parrats language, pronouncing it knows not what, I thinke it not impertinent to put them in mind, that heretofore I have required instruction, both precedent and subsequent, and am ever of the mind, that though all this cannot be done at once, yet it is necessary allwayes to be doing our best; knowing, that not to go forward in Religion, is the ready way to go backwards it is not the outward obedience of comming to Church, that discovers the inward thought of the heart, it is the confession of the tongue that must utter those secrets, and where the Curates are insuf-

So long as houses and lodgings in *London* are let to Papists, the Priests will be received, and from thence shall the Country be infected.

If we can prevent the increase of papists, those that now live must either be reformed, or in time yield to nature, and then shall a new age succeed of Christians, by education made Religious.

ficient

ficient, or the Parish great, I wish they had Catechists to assist them, maintained by the purses of the Recusants, which pension being collected for Gods cause, will free us of scandall, though it grieved them to pay the spirituall Army waged against their owne stratagems; surely by giving them way in petty matters, they are grown to be very masterfull in their party. *Plato* affirmeth that the popular State proceeded from the Licence which the people took to make immoderate applauses in the Theaters, when as by arrogating that immunity without controllment, in presence of their Governours, and perceiving the Nobility to joyn with them in the same passions, they thought their heads as worthy to govern, as any of those were made out of the same mold: In like manner while wee suffer ignorance openly to maintain such petty glimps of Popery as are thought to be scarce worthy to be looked at, in small maters runne an indifferent course, which neither makes sure friends nor feeble foes, unawars they take the Briddle from us, and eate out Religion, as it were by an insensible *Gangrena*:

The broachers of a bad cause being touched in Conscience, at the first move slowly, but if they prevaile they grow tyranous beyond measure.

Principiis obsta, sero medicina paratur
Cum mala per longas invaluere moras.

For by sufferance of breaking small laws people are boldned to set the greater at nought.

To

To comprehend all things in a Law which are necessary to the reformation, I neither hold it profitable nor expedient, yet it is discretion to provide for the most important, smaller matters whereof the lawes speak not are to be commended to the discretion of Parents, Ministers and other Reverend persons, who by example and advice may prepare younglings by education and Custom to obey the Laws, especially such as are in high place ought in this behalf to be like *Cæsars* wife, *Non solum Crimine, sed etiam Criminis suspitione vacare*, and with such circumspection to behave themselves, that the world may conceive, in requiring obedience to God, and their Soveraigne, that they hold the multitude rather for companions than slaves; *If* great men take another way, they may seduce many by example, though by words they expresse not their concealed opinions, *Tace & loquere* said *God* to *Moses*, it is the speech of the heart, which uters more than letters, or sillables. And in our common lawes it is held maintainance, when a great person onely by his presence countenanceth a cause; neither let us secure our selves with this argument, The Papists are pliable in small matters, *Ergo*, they will yeeld in greater; And because they took no Arms in 88. therefore it were needlesse

Most men will affect to be such as the highest Trusts, and Favours.

A great man is an Idoll in the eyes of mean People, and draws many to imitate his actions.

needlesse curiosity to suspect them now: for who knowes not that small baits are used to take the greatest Fish, *Vt cum esca una etiam hamus devoretur.* Warines is the sinews of wisdom, and nothing is more dangerous than to be secure in matters of State. Therefore for the Lawes already made, I wish that the most effectuall of them which least concern life, may be executed; for better it were not to make them, than by neglect to set them at liberty: Seeing that many offences there are which men would abstain from, if they were not forbidden, but when a strict Commandement is avoided without punishment, thereout springs an unbridled license and hardly to be reformed by any rigour.

Few laws well executed, are better than many.

To conclude, I say freely, that whoso endeth his dayes by a naturall death, he shall be subject to many mens dooms for every particular offence; But when for Religions sake a man triumpheth over the sword, that one eminent Vertue razeth out the memory of other errours, and placeth him that so dieth in Paradise, (if common opinion may be lawfully vouched) which glory having many followers and admirers, maketh even dull spirits to affect their footsteps, and to sell their lives for the maintenance of the same cause. I need not

A Crowne of Glory once attained, hath power to dispence with former faults.

Envie

Envie the name of a Martyr to the Iesuite; for his cause if it be rightly weighed, will blanch that title; but I desire to have all those Lineaments defaced, which may compound that counterfeit Image; in prosecuting of which purpose, if I have failed in my advice, and by confused handling, intricated the question, I humbly request, that a wise mans verdict may mitigate the heavines of the censure.

It is neither good to praise bad counsels, because of their good successe, nor to condemn good Counsels, if the event prove not Fortunate, lest many be animated to advise rashly, and others disheartned to Counsell gravely.

He Counsells best, that prefers the Cause of God, and the commonwealth before any particular.

Illi mors gravis incubat qui notus nimis omnibus ignotus moritur sibi. — *Seneca Trag.*

August 11. *Anno Domini* 1613.

THE

THE MANNER AND MEANES HOW THE KINGS OF ENGLAND *Have from time to time* SUPPORTED *And Repaired their* ESTATES.

Written by Sir ROB. COTTON Knight, and Barronet: *Anno nono Jacobi Regis Annóque Domini* 1609.

LONDON,
Printed in the year 1651.

THE MANNER AND MEANES HOW THE KINGS OF ENGLAND Have from time to time SUPPORTED and Maintained their ESTATES

Written by Sr Rob. Cotton Knight and Baronet: —— at Jesus Hall Cambr. Some 1 copy.

LONDON,
Printed in the year 1671.

The Manner and Means how the

KINGS OF ENGLAND

Have from time to time

SUPPORTED AND REPAIRED *THEIR* ESTATES.

THe Kings of *England* have supported and repaired their Estates.

First, by an Annuall proportioning their Issues, and Expences; with their certain and Casuall Revenues.

And that either by { Advice of their *PRIVIE COUNCEL*, or by *PARLIAMENT*.

Secondly, by abating and reforming the Exceſſe of Houſehold, *&c.*

Thirdly, by raiſing of Money, and improving the Revenues of the Crown.

First, for Proportioning of the Iſſues &c.

Hen. 4. Ex rot. orig. inter acta Concil. Hen. 4.

Henry 4. *Anno* 12. When the Revenue and profits of the Kingdome, together with the Subſidy of Wooll, and Tenth of the Clergie; amounted to no more then 48000 l. of which 24000 marks were allotted for expence of Houſe; moſt of the reſt to the Guard of the Sea, and defence of this Kingdome, the Realme of *Ireland*, and Dominions in *France:* In this eſtimate the profit by Wards and Marriage, was but 1000 l. And then an Ordinance was made by the King, Prince, and all His Counſel there named in the Roll.

The like was *Anno* 11. when for the charge of houſe was appointed 16000 l. and 7000 l. to the City of *London*, in diſcharge of the Kings debt to them.

Hen. 5. Ex rot. in actis Concil. an. 2. Hen. 5. in Fin.

Henry 5. *Anno* 2. did the like as his Father, entring upon the Roll as an Ordinance in future, that the Treaſurer of *England*, or the *Exchequour* ſhall Annually make declaration of the ſtate of their Office, and the Revenue of the Realme, together with the charge of the Kings Houſe, Chamber, Wardrobe, Garriſons, Navy, and Debts.

Anno 3. *Henry* 5. the like Aſſignments were

were made proportionable to the Revenue which in the great Cuſtome of Wools, the petty Cuſtome, Tunnage and Poundage, revenue of *Wales*, and the Duchie of *Cornewall*, the Hamper, the accounts of Sheriffs, Eſcheators, the Exchange of *Bullion*, and the benefit of Wards and Marriage (then rated at but one thouſand marks apiece) roſe not to above 56966. l. And being at ſuch time as he undertook the Conqueſt of *France*. Ex rot. orig an. 3. Hen. 5.

Anno 9. Henry 5. the revenue of the Kingdome amounting to 55743. l. 10. s. 10. d. was ſo by the King with adviſe of his Councel ordered, as before. Ex ordinar. anno 9. Hen. 5.

And by this Record it appeareth, that the Clerks of the Navy, and not the Treaſurer was the Officer onely for that place.

Henry 6. anno 12. in Parliament, *Cromwell* then Treaſurer, delivering up an Account of the *Exitus* and *introitus* of the Exchequour, ſettled the eſtate of his expence, of which there was allowed for his houſe 16978. l. and to his Chamber and Wardrobe 2000. l. The reſt to defray the debts and neceſſary occaſions of the State. Hen. 6. Ex rot. Par. anno 12. Hen. 6. n. 24.

Queen Elizabeth, anno 12. At which time beſides the Wards and Duchy of *Lancaſter* the profit of the Kingdome was 188197. l. 4. s. the payments and aſſignements 110612. l. 13. s. of which the Houſhold was 40000. l. privy Purſe 2000. l. Admiralty 30000. l. which by an eſtimate 1. *May*, *anno* 1604. was 40000. l. And is now Queen Eliza. Ex comp. Din. Burghley Theſaur.

ſwolne

swolne to near 50000. l. yearly by the errour and abuse of officers.

SEcondly, by abating and reforming the Excesse:

1. Of Houshold.
2. Of Retinue and Favorites.
3. Of Guifts and Rewards.

First, for abating and reforming the Excesse of Houshold, either,

by { Parliament or Councel Table.

1. *By Parliament.*

Edw. 2. Ex Angl. M.S. folio 29.

Anno 3. *Edward* 2. An Ordinance was made *pro hospitio Regis*, in ease of the people oppressed with Purveyance by reason of the greatnesse thereof, and the motive of that ordination was, *A l'honneur de Dieu, et a honneur, et profit de sainct Eglise, et a l'honneur de Roy et a son profit, et au profit de son peuple, selon droit et resonel serment que le dist nostre Signeur le Roy fist a son Coronement.* And about this time was the King's house new formed, and every officer limited his charge and salary.

Ex libro. Do. Aula Regis.

Edw. 3. Rot. Parl. anno 36. Edw. 3.

Anno 36. *Edward* 3. the houshold was reformed at the petition of the People.

Rich 2. Rot. Parl. 1. Ric. 2.

Anno primo Richard 2. the houshold was brought to such moderation of expence, as may be answerable to the revenues of the Crown.

Crown. And a Commiſſion granted at the Petition of the Commons to ſurvey and abate the houſhold; which not taking, deſired effect; *Anno* 5. the Commons petition that the exceſſive number of menial ſervants may be remedied, or otherwiſe the Realme will be utterly undone, and that his houſhold might not exceed the ordinary revenues of the Realme. Rot. Par. an. 4 Rich. 2. Rot. Parl. an. 5. & 6. Rich. 2.

Anno 4. *Henry* 4. The people crave a reformation of the Kings houſe. And *anno* 7. that he would diſmiſſe ſome number of the retinue; ſince it was now more chargeable, but leſſe honourable then his progenitors; and that the Antient Ordinances of the houſhold, in eaſe of the people might be kept, and the officers of the houſhold ſworn to put the ordinances and ſtatutes in due execution, and ſo conſider the juſt griefs of his ſubjects by unjuſt Purveyance contrary to the ſtatute. That hereafter *vous poiez vivre le voz biens propres en eaſe de voſtre peuple*, which the King willingly doth as appeareth by an ordination in Councel, whereby the charge of the houſhold is limited to 16000. markes. Hen. 4. Rot. Parl. an. 4. 7. & 11. Hen. 4. Ex Ordinat. in Rot Act. Concil. an. 11. Hen. 4. marked R R

Annis 12. & 18. *Henry* 6. The charge of the Kings houſe is reduced to a certainty, and leſſened by petition and order in Parliament. Hen. 6. Rot. Par. an 12. 18. Hen. 6.

Anno 12. *Edward* 4. The King promiſeth to abate his houſhold, and hereafter to live upon his own: So ſetling a new form Edw. 4. Ex. rot. Parl. an. 12. Edw. 4.

Ex lib. ordin. Hospitii temp. Edw. 4.

his Court, which is extant in many hands, intituled, *Ordinations for the Kings house.*

Rot. Par. an. 27. Edw. 3. 7. Hen. 4. n. 3. Mich. recep. 27. Hen. 6. n. 9.

And to ease the charge of the Kings house, the Queenes have allowed a portion of their jointure suting to their own expence to the Treasurer of the houshold. Thus did *Philip* the wife of *Edward* 3. and likewise *Henry* 4. wife *anno* 7. And *Henry* 6. wife allowed 2000. l. a year out of her estate.

2. *Excesse of the houshold abated and reformed by the Councel-Table.*

Edw. 2. Ex Aula Regis fact. temp. Ed. 2.

Edward 2. caused his houshold to be certain in allowances, making thereof a book by way of ordinance, which is called *Aula Regis.*

Hen. 4. Act. concil. 8. Hen. 4. marked P. P.

Henry 4. causeth his son the Prince and the rest of his Councel, to ordain such moderate governance of his house, that may continue *au plaisir de Dieu et du peuple.*

Hen. 6.

Henry 6. *anno* 27. reduced his charge of house to 12000. l. whereof 2000. l. was out of the Queens jointure.

Ed. 4. Ex lib. ord. tem. Ed. 4.

Edw. 4. *anno duodecimo* reformeth it again and publisheth a book of orders for their better direction.

Ordinat. Card. Woolsey Hen. 8.

Which after Cardinall *Woolsey* for the more honour and profit of the King amendeth, and that still remaineth the ground-work of the present government: Which being now so much corrupted, it may seem fit, either to put down

down the tables and leave all attendants to allowance of money, as *France* and *Spain* doth, or elſe by ſetting up the Hall again, reduce the houſhold to the beſt, firſt, and moſt magnificent order. So all things being ſpent in publique, will be to the Kings honour, and the ſecret waſte by Chamber, diet, and purloining, prevented to the Kings benefit. For there is never a back-door in Court that coſts not the King 2000. l. yearly, and few mean houſes in *Weſtminſter*, that are not maintained with food and firing, by the ſtealth of their Court-Inſtruments.

By abating and reforming the exceſſe of Retinue and favourites.

Thus did *Henry* 2. with *William de Ipre* Earle of *Kent*, a *Netherlander*, and all his Countreymen and followers, when they grew heavy and a burthen to this State, unable to foſter more then her own naturall children. Hen. 2. Ex Gervaſ. Dorobern.

Thus *Richard* 1. did with *Otho* Earle of *York*, and all the *Bavarians*, although he was the ſonne of his ſiſter, taking from him that Earldome, for that the people oppoſed it, and giving him in exchange the title of *Poictiſe*. Rich. 1. Ex Richardo canonico in vita Rich. 1.

Thus *Henry* 3. did with his half-brethren the Earl of *Pembrook*, and Biſhop of *Winchester* and all the *Poictons* their followers. Hen. 3. exlib. S&. Albani & Wil. Riſhang. & lit. Baron. Papæ.

Thus

Edw.2.Ex ordina.3.Ed. 2.in li. legum manuscript fol.285.

Thus did *Edward* 2. by this Ordinance, *Que tout le lignage Sire Pieres de Gaveston soit entirement ouste de estre entoines le Roy et de son service. Item Burgois de Til soit ouste et son fias que est mereschal del'Escbequer. Item que Bertram Assabi et son Frere et ceux de Gascoigne, et Aimyrick de Friscomband soint oustre et ses terres prises en le main le Roy.*

Rich.2. Ex rot. Parl. an. 10. Rich.2.

Thus *Richard* 2. did with the *Bohemians anno* 10. by an Act of Parliament at the petition of the people surcharged.

He.4. Ex rot. Parl.an.7.& 12. Hen.4.

Thus *Henry* 4. did likewise with the *Gascoignes* & *Welch* over-burthening and impoverishing the King and Realme with perpetual suits, so that in Courts (as the Record saith) there were *ne ad mill substance des personnes vaylantes et suffesants : Si Besoigne seroit mes de Rascaile pur la grendre part.*

By abating and reforming the excesse of Gifts and Rewards.

Rich. 2.Rot. Par.an.21. Ri. 2 an.2.4. & 5. Hen.4.n 9.

Hence was it that the wisdome of former time, foreseeing the mischief that the open hand of the Soveraigne may bring, the State made a Law 21. *Richard* 2. that whatsoever cometh to the King by Judgement, Escheate, forfeiture, wardship, or any other waies shall not be given away, and that the procurer of any gifs, shall be punished.

Hen. 4. Rot. Par.an. 7.Hen. 4.

This the Parliament continued 7. *Henry* 4. untill the King were out of debt, making frustrate the grant,& ordaining a penalty

nalty of double value to every mover or procurer of any ſuch.

The like *anno.* 11. *Henry* 4. And that no petition for any thing ſhould be delivered the King, but in the preſence of the Councel, who might examine it, leaſt the King's wants ſhould light upon the Commons. Rot.Parl.anno 11. H. 4.n.23.

And to keep the hand of *Henry* 6. from waſteful giving, the Councel induced him to convey to the Arch-Biſhop of *Canterbury* and others all profits, by Wards, marriages, reliefs, eſcheats and forfeitures, to defray the charge of his houſe. Hen.6.Pars. Parl.2.an.25. Hen.6.m. 24.

It is one of the greateſt accuſations againſt the Duke of *Somerſet*, for ſuffering the King to give away the poſſeſſions and profits of the Crown in manner of a ſpoil: for ſo are the words of the Record. Ex rot.Parl. an.28.Hen. 6.

And it was made the firſt and chiefeſt Article to depoſe *Richard* 2. for waſting and beſtowing the lands and revenues of the Crown upon unworthy perſons, and thereby over-charging the Commons by exaction. Rich. 2. Ex rot Parl.an. 1. Hen.4.

THirdly, Raiſing of money, and improving the Revenues of the *Crown*:

Either by the { Grant of the Subject, Or Power abſolute in the Soveraign.

1. Grant

1. Grant of the Subject, which is { Generall, as in Parliaments. Or Particular by Lones, { Compulsive, Or Benevolent.

Ex lib. rub. in Secto.

Generall, as in Parliaments, wherein they give the King part of their own, by way of Retribution onely; as

For Defence of the State.

Ex Jo. Euersden. Ex hist. Rossens. Ex rot. Parl. temp. Ed. 3. Ex rot. Par. annis. 2, 3.5. Rich. 2. Rot. Parl. 89. Hen. 4.

Hence grew the *Scutage* granted to *Hen.* 2. *Richard* 1. *John* and *Henry* 3. to *Edward* 1. divers Fifteens and Tenths for his wars against the *Scots* and *Welshmen*. The Subsidie of Woolls and other Contributions to *Edward* 3. for his Wars: And the like granted to *Richard* 2. *annis* 2. 3. 7. so they may be imployed in the Wars: and particular Treausurers to accompt in Parliament. So in the 8. and 9. of *Henry* 4. on the like condition.

Ex Rot. Parl. an. 13. Hen. 4. & 1. Hen. 5.

Tunnage and Poundage begune the 45. *Edward* 3. had hence his originall; and therefore 13. *Henry* 4. and 1. *Henry* 5. they are granted so in expresse words; and that they proceed of good-will, and not of duty. Presidents of this nature are plentifull in all the Rolls.

For Maintenance of Religion and the Church.

As in the year 1166. to *Henry* 2. was given

given twelve pence in the pound: and in the 18. *Edward* 1. a fifteenth was granted to expell the Jewes. And *Anno* 4. *Richard* 2. a tenth of the Clergie, and a fifteenth of the Commons, for his help to suppresse the *Wicklivian* heresie.

Ex Benedict. Monacho in vita Hen. 2. Ex Adam. Merioneth ex Rot. Par. anno 4. Rich. 2.

For support of the Laws and liberty of the Common-Wealth.

So did the State to *Henry* 3. *anno* 27. for confirmation of the great *Charter*, for the like *anno*. 15. was granted 29. *Edward* 1. and 13. *Edward* 3. and 7. *Henry* 4. That the lawes may be executed against Purveiors.

Ex Rad. cogshal. Ex hist. Roffen. Rot. Par. an. 23. Ed. 1. 13. Ed. 3. & 7. Hen. 4.

For redresse of the Agrievances.

As in the 15. *Edward* 3. so that the King would performe their petitions, or else they held themselves not bound to pay the ninth they had given.

Rot. Par. anno 15. Ed. 3. n. 16.

The like was the 7. 8. 9. 10. and 11. *Richard* 2. The 10. and 15. granted the 4. and 7. of *Henry* 5. is upon condition, that the King laid no impositions upon the State. And 7. *Edward* 4. the State relieveth the King, so he will promise to live hereafter upon his own and not burthen the State, the which he their protesteth to perform.

Ex rot. Par. an. 7, 8, 9, 10, 11. Rich. 2. Ex rot. Par. an. 4. & 7. Hen. 5. rot. Par. 7. Edw. 4.

And it is to be observed that to improve the grants of subsidies to the extreamest value

Ex original. an. 3 Rich 2.

value, there were new Commissioners appointed to survey and advance mens fortunes above the estimate of the former taxes, and Commissions have been granted out, as 3. *Richard* 2.

Or to enable him out of his own by an Act of Resumption of Lands, offices, annuities.

Rot.ordinat. an.5. & claus. an.9. & 10. Edw.2.

Thus did *Henry* 3. *anno* 6. And *Edward* 2. *anno* 5. to 9. & 10. by an ordination of the Prelats, Earl s and Barons.

Rot.Par.an.1. Rich.2.Rot. Parl.an.1.2. & 6.Hen.4.

All grants made by *Edward* 3. to unworthy persons, *Richard* 2. resumed *anno primo*, and by *Henry* 4. *anno*.6.

All pattents for life or years since 4. *Edward* 3. were resumed.

Ex Rot.Par. an. 1. & 2. Hen.5.

At the petition of the People *Hen.* 5. revokes all grants out of the principality made to unworthy persons, and all annuities out of the customes of Wools, deducting out 10000. l. a year out of all other annual pensions ratably, leaving the remain, if any, to the Pattentees.

Rot.Parl.anno 28. 29.33. Hen. 6.

Henry 6. *anno* 28. 29. & 33. resumeth in *England* all Lands, offices, liberties and grants from *anno primo*, and the like *anno* 21. in *Ireland*.

Ex act. Conf. an.21 .Hen.6. Rot.Par.an.2. Hen.7.

So did *Edward* 4. *annis* 4. 7. 12. And *Henry* 7. *anno* 2. resumed all grants made by *Edward* 4. or *Richard*. 3.

Parti-

Particular by { Lones Or Benevolences. } { Voluntary, Or *Compulsive.*

First upon Lones voluntary, as upon assurance of Bond of the Nobility.

So was *William de la Poole* bound for *Edward* 3. *anno* 13. in great summes, and the Duke of *Glocester anno* 20. *Henry* 6. and the Cardinal pawned his silver Vessels for *Henry* 6. debt. Rot. Parl. an. 13. Ed. 3. act. concil. 20. 22. Hen. 6.

Upon pawn of Jewels.

Thus did *Henry* 3. *anno.* 26. to the Archbishop of *York*, and when his own were at gage, he took *Aurum et Jocalia feretri sancti Edwardi Confessor.* and pawned them. Claus. an. 26. Hen. 3.

Edward 1. imploied one *Andevar ad jocalia sua impignoranda.* Clau. 29. Ed. 1.

Edward 2. pawned his Jewels to the Lord *Beaumont.* Rot. fran. ann. 9. Edw. 2.

Edward 3. pawned *Magnam Coronam Angliæ* to Sir *John Wessingham for* 8. *years.* Comune insc. 30. Edw. 3.

Richard 2. pawned *vasa aurea et diversa jocalia* to Sir *Robert Knolls.* Parl. an. 7. Rich. 2.

Henry 4. *Invadiavit tabellam et tresellas suas argenteas de Hispania.*

Henry 5. pawned his great Crown to the rich Bishop of *Winchester.* Parl. anno 5. Hen. 5.

Henry 6. to the same man then Cardinal pawned Parl. an. 10. 12. 29. Hen. 6.

pawned many parcels of his Jewels in the 10. 12. and 29. of his raign, and the like to many others.

And the late Queen to eaſe her people, did the like with her Jewels in the Tower, beſides the often morgage of her land.

Lones voluntary upon Aſſignments of Cuſtomes and Subſidies.

Act. concil. an. 22. Hen. 6.

So did the Cardinal *Brauford* lend 10000. l. to *Henry* 6. *anno* 22. upon ſecurity of the Cuſtomes of *London* and *Southampton*, the King indenting to turn the courſe of moſt trade thither. And *Henry* 6. *anno* 15. and *Edward* 4. *anno*. 12. did ſecure their debts by aſſignement over of the next ſubſidie or aide that ſhall be granted from the Church or Laity to them, being a deviſe in truth to draw on a ſupply the ſooner from the State.

Ex. billa ſign. an. 15. Hen. 6. & 12. Edw. 4.

Lones voluntary upon the Great Seal or the Privy Seal.

The Great Seal, under which they ſhould have without paying Fee a patent ſealed for repayment of their dues by a day certain.

Rot. original. an. 33. Hen. 4. marked. B. B.

The Privy Seal, which is of late the moſt in uſe; and it is worthy of obſervation to ſee the willingneſſe of former times in reſpect of theſe.

In the 13. of *Henry* 4. there is a Roll intituled

Rot. act. conc. 13. Hen. 4.

intituled *les nomes de ceux que ont da prester au Roy les sommes escrits.* The Arch-bishop of *Canterbury* lent 1000. markes, the Bishop of *Lincoln* as much, the Bishop of *Norwich* 600. l. the Bishop of *London* 500. markes, the Bishop of *Bath* 400. markes, the Lord Privy Seal 200. l. the Clerks of the *Chancery* 1000. markes.

Rot. act. concil. 13. Hen. 4.

Particular Grants of the Subject by Lone compulsive.

So were the Merchants of *Florence*, *Venice* and *Luke*, compelled by an order in Councel 3. *Henry* 3. because they had by *grace & sufferance du Roy graunts, priviledges et reportants grand lucre pour le exercise de leur Merchandre en le Angle terre.* And the persons that refused to lend were committed to the Fleet, neither were the *English* more free, in *anno* 30. *Henry* 6. divers being enjoyned to attend the Councel-table, or else to pay the demanded Lone.

Ex ordinat. Concil. an. 3. Hen. 5. marked N N.

In the time of *Henry* 8. *anno* 14. of his raigne, he exacteth by way of Lone, ten pound in the hundred of all goods, jewels, utensils and land, and according to the extreamest rate revealed by oath of the possessors. Notwithstanding there is a law 2. *Richard* 2. that none shall be denyed in demand of any Lone, his reasonable excuse.

Ex instruc. Comiss. 14. Hen. 8. Rot. Parl. 12. Rich. 2.

Particular Grants of the subjects by contribution or Benevolent gifts.

Ex Charta Episcop. Cant. Ro. claus. 29. Edw. 1. claus. 35. Edw. 3. Ex instruc. original. 20. Hen. 6.

These were of old usual and free, and therefore called *Liberalitas populi*, by *Richard* 1. And *Curialitas*, by *Ed*. 1. *Ed*. 3. *Henry* 4. and *Henry* 5. confessed to proceed *ex spontane voluntate, nec de jure vendicare potest*. Yet did *Henry* 6. *anno* 20. in an instruction to Commissioners imployed in procuring a *Benevolence*, say, that for so much as by the Law he might compell all his subjects and at their own charge to attend his; yet he was contented to spare such as would but contribute asmuch after his degree and reputation as two daies in his personal service would stand him in, thereby imploying a necessity in them to give, to escape a further expence.

Ex act. Parl. an. 3. Mariæ.

This law, upon which *Henry* 6. grounded himself, was by a Statute in Queen *Maries* time repealed. And that since repealed this last year, hath made a reviving of the former, whereby the King is remitted into his old advantages, and the subject in the former mischief. And *Henry* 8. *anno* 17. Although he entituleth the *benevolence*, he sought with no other stile then an amicable grant, yet he threatned the refusers with convention before his Councel, imprisonment, and confiscation of goods.

Ex instructione original. 17. Hen. 8.

The

THe Kings raise money, and improve the revenues of the Crown.

By power absolute in the Soveraigne, in disposing, { 1. Lands, 2. Merchandize, 3. Regalities.

1. Lands, as by selling; which hath bin often and old, if they were not of the Antient demeasne land, which our forefathers held impious to alienate from the *Crown*, and those were such Lands as go under the title of *Terra Regis*, in the book of Domesday, and were the Lands of *Edward confessor*: of other Lands I never observed question, neither do ever find that Acts of Resumptions ever reached to Lands that were sold for valuable consideration. Lib. Domesday.

By passing in Fee-farm, except places of the Kings Residence, Parks, spacious wastes or Forrests, all the Lands of the the Crowne, which remaine either in the annexation, custody lands, or Queenes jointure, and exceed not yearly 32000. l. These although largely estated out in several natures, some for lives, some for years, will one with the other be advanced to a treble rent, which amounting to 96000. l. leaving an annual improvement of 64000. l. And if the offer be not made restrictive for the new Tenant, there is no doubt but his Majesty shall find ready and hearty undertakers amongst the Gentry and Nobility too, who have any place of

Residence, neer any his Majesties Mannors; and the Kings security the better, since their abilities will settle the Fee-farme rent upon more land then the purchase.

If any shall object against this, a losse by fines and profits of Courts, a prejudice in not serving necessity (as of late) by sales or diminution of Regalities in seisure of so many Royalties. It may be answered to the first, that the casuall profits of Courts never defrayed to the present officers their fees and expences; and this appeareth from a collection made the 44. year of the late Queen, where the total issue of such certain charge exceeded the receipt of such chances above 8000. l.

To the second, if looking upon the several rates of the Kings lands, exposed to Fee-farme sales, we find some at 50. other at 21. years as to the late contractors, and make out of these extreames a *medium* of the largest 40. years, & set on the other side the Common and current estimate for dead rents 15. years purchase: We must find, that 50. l. land sold un-improved respectively to the like trebled by a Fee-farm, will be 250. l. losse to his Majesty in the sale. As for regalities, though it may adde somewhat to a Subject, in increasing such his petty command, it can nothing to a Soveraign, whose transcendent power drown'd in it all such subordinate dependances and regards. But if we consider besides the former improvement, the increase of casu-

caſual advantage, and diminution of certain charge, we ſhall have juſt cauſe not to continue this courſe; for if the Commiſſioners in this buſineſſe, may be ordered by inſtruction to reſerve upon every Mannor of above 30. *per Annum*, a tenure in Knight-ſervice by halfe a fee, and of above 50. l. in Capite by an intire fee, and by the purchaſe to pay his rent into the receipt himſelf halfe yearly, and ſtrike there his Tally, the former will advance the revenue accidental of the Crown in Wardſhips, *primier ſeiſin*, alienation and aides, and the latter cut off at once ſo many their unneceſſary Receivers, Auditors, Stewards, Bayliffs and Clerks, as ſtand the King in yearly above 12000. l. as for other dues or caſual revenues, which now fall under the charge of theſe officers, the Collection and payment may be as it hath been with the reſt from the time of *Henry* 2. until of late daies laid on the Sheriffes of the ſhire, and all the accounts left to the 2 Auditors of the preſſe to draw up, and Clerk of the pipe to enter in *Magno rotulo* as in former time, for it muſt ſeem ſtrange to all men of judgemtnt, that it ſhould be with thoſe officers (who had their beginning, but ſince the 25. year of *Henry* 8. by addi tion of his new revenue of 150000. l. from the ſuppreſſed Monaſteries) otherwiſe then with all things in nature, and reaſon, *Ceſſante Cauſâ ceſſat effectus*, not to be diſcontinued, when as all Crown-annexed

lands that gave them their just imployment, are for the most part passed from the Soveraign into the subjects possession.

Besides this of a general disposing in Fee-farm, there hath been a project in particular to infranchise the Copy-holders in the severall Mannors, which I should hold to be of more prejudice to his Majesty then the others, bringing with it all the former *inconveniencies*, losse of fines, Regalities and advantages, of sale, and being without many of the advantages as Wardships, *Primiers Seisein*, alienation & aides; for no man will buy quillets but in soccage, and discontinuance of officers, who must still remain, though they can bring the King but little benefit.

Kings raise money and improve their Revenues, by Farming out for years, Lands, casualties, or wastes.

Rot Parl. an. 7. Hen. 4.

As in the 7. *Henry* 4. the State held it more just to help the King out of his own, then to burthen the Common-Wealth, and therefore gave way by Parliament to the King to improve up his lands, though in lease provided that the Leassee should have refusal of the bargain if he would.

Rot. fin. an. 2. Edw. 2.

Rot Parl. an. 15. Edw. 2.

Edward 1. *anno*. 2. granted a commission to farm out all such wastes, *Quod absque injuria alterius fieri potest*. And in *anno* 15. asserted a great part of his woods for rent, and disforrested in most Counties of *England*

land for a ſumme of money they gave him.

And it was not the leaſt of charitable thrift in the King, to reduce much of his waſte to habitation of Chriſtians, eſpecially the remote forreſts, which would increaſe many thouſand families for his ſervice, and bring many thouſand pounds to his Coffers. Rot. clauſ. an. 7. Edw. 2.

But in the carriage of this buſineſſe there muſt be much caution to prevent commotion, for in them there are many that have right of common *ſans* nombre. And the reſolution in agreement with them muſt be ſuddain, and confident, for multitudes are jealous and inconſtant. And the inſtruments to effect this, muſt be ſuch as are neighbours, intereſſed and popular, not ſtrangers; And the firſt demiſe to the inhabitants and at under and eaſie values.

Kings raiſe money, and improve the Revenues of their Crown, by manuring of Lands.

Thus did *Henry* 3. *anno* 13. in removing out of moſt of his Parks, as *Gillingham, Brigſtock, Cliff, Woodſtock, Haverell, &c.* all mens cattle *pro bobus, pro Lardaria Regis in Parcis prædictis impinguendis.* Rot. clauſ. an. 13 Hen. 3. memb. 10.

And *Edward* 1. commanded all the Eſcheators in England, *Excolere, ſeminare & appropriare ad maximum Regis proficuum omnes terras, quæ regi & Coronæ ſuæ devenerint per* Rot. fin. 2. & 3. Edw. 1.

mortem aliquorum vocationem Episcopatium. &c.

KIngs raise money and improve the Revenues of their Crown

By Merchandise { 1. *Trading themselves.* 2. *Licencing others to trade in Commodities,* { *Lawful Or Unlawful.* 3. *Improving Customes.*

1. *Trading themselves.*

Rot. vascon. 22. Edw. 1. Thus did *Edward* 1. *anno* 22. seised into his hands all the wools in the Kingdome, as the Merchants were lading them in the ports, giving them security of payment at a long day, and a short price, and then transporting them to his own best and readiest sale.

Rot. Almaign. 12. Edw. 3. Thus did *Edward* 3. *anno* 12. with all the Tin.

Act. Concil. an. 20. Hen. 6. And *Henry* 6. *anno* 20. by advise of his Councel tooke up by way of purveyance great store of Grain, and transportest it into *Gascoigne*, where by reason of a dearth, the price was extream. In *anno* 31. he arrested all the Tin in *Southampton*, and sold it to his own present use: and in the year following using the advantage of the Statute, which bound all men to trade the staple Commodities to no other place but *Callaice*, vented himself many sacks of wool

to

to other Ports of better advantage.

And the late Queen *anno* 1567. causeth, by warrant of Privy Seal a great proportion of Beer to be purveyed, transported and sold to her use beyond the Seas. Warrant. sub privat. sigill. an. 9. Eliz. Reginæ.

KIngs raise money and improve the Revenue of their Crown

By licencing others to trade Commodities { Lawfull Or Unlawful.

1. *Lawful, but soly.*

Thus did *Henry* 6. by approbation of Parliament, withall the trade of *Allome*, for two years granted to the Merchants of *Southampton* for 8000. l. And again for the like sum to those of *Genoway*. Rot. Parl. an. 29. Hen. 6. n. 15.

2. *Unlawful or Prohibited.*

Thus did many of the Kings, (after such time as the heavy burthen of imposition began in the miserable necessity of *Henry* 3. called then by no better name then *Maltolt*) and continued untill the 15. year of *Richard* 2. by divers intermissions, for then I find the last petition of many in Parliament against it, was altogether taken away. For when *Richard* 2. and his successors found the Revenue lessened, by the importunate cry of their people, whereby im- Rot. claus. an. 19. Hen. 3. Rot Parl. 15. Rich. 2.

impoſitions were laid aſide, they began to adviſe another ſupply out of the unbounded power of ſuppoſed prerogative, & finding a greedy deſire of one Merchant to prevent another of his market (reſtrained by that Act or *Statute*, which tyed them to one time, and to one port *Callaice*, for all ſtaple commodities) they uſed to ſell Licences with a clauſe of *Non obſtante* of any ſtatute, whereby they diſpenced with multitudes, to trade with what commodities and to what places they would.

Ex billa ſignat. an. 20. Rich. 2.

To the Merchants of *Newcaſtle Richard* 2. gave leave to carry wool-fells &c. to any other port beſides *Callaice*, upon condition that they ſhould pay for them Cuſtome and ſubſidie according *Le ſage diſcretion de voz ou de voſtre ſage Counceil.*

To diverſe Citizens of *London*, *Henry* 4. in the like ſort diſpenceth for great quantity of Tinne for ſeven years, paying 400. l. yearly above the uſual Cuſtome.

Ex petit. an. 5. Hen. 6.

Henry 6. annis 5. 21. 30. reneweth to the town of *Newcaſtle* the ſame licence they had *anno* 20. *Richard* 2. and granteth 600. ſacks of wool to *Benedict Benoni* Merchant of *Florence*, with *non obſtante* any ſtatute or reſtraint: In this year ſuch Licences were ſo frequent, that the town of *Callaice* complained in Parliament of their decay thereby; yet without relief as it ſeemeth. For the ſame King *anno* 36. giveth leave to *Lawrence Barbarico* to tranſport from *London* to *Ciceſter* 12000. ſacks of wooll to what

Ex act. Concil.

what ports he list: And *Edward* 4. *anno* 10. borrowing 12000. l. of divers Merchants, permitteth them *non obstante* any law to carry any staple commodities to the *Straits* of *Morocco* untill they were satisfyed their sum. Ex billa original. an. 10. Edw. 4.

Henry the 7. raised much money, by giving leave to many Merchants to trade inward and outward Commodities prohibited, as to *Alonso de Burgues* great proportions of Ode *Anno* 6. and to a multitude of others all kind of grain and other forbidden things, as in *annis* 20, 21, 22. Ex lib. comp. inter Hen. 7. & Dudley.

KIngs raise money and improve the Revenues of the Crown, by improving customes.

By { 1. Farming out of Ships.
2. Raising the book of Rates.
3. Farming the Customes. }

1. *Farming out of Ships*

To the Merchants, and taking security of them, either to bring in or carry out yearly asmuch Commoditie, as shall yield the King in Customes the sum agreed on, or else to make it up out of their own money.

Thus did *Henry* 7. many years, not only with his Ships, but with divers stocks of money. Ex. lib. Hen. 7.

2. *Raising*

2. *Raising the book of Rates.*

Rot. Almaign. 3. Edw. 3. Rot. claus. 29. Ed. 1. Ex tract. Bruxelles.

This was in some sort done *Consensu Mercatorum* by *Edward* 1. and *Edward* 3. and again in *Henry* 8. time, of which the house of *Burgandie* complained, as against the treaty of entercourse, and of late so stretched; as it is feared it will prove the overthrow of trade: neither do I find this course at any other time.

As a branch of this, may aptly fall out the benefit Princes made by a prerogative power of imposing inward and outward upon Commodities, over and above the antient Custome or subsidie. The first that used this course after the Statute was settled, from a King of voluntary government after the Conquest (when as Kings ruled more by the edge of the sword then by rule of law) was *Henry* 3. about the entrance of his Raigne; But finding it to be an apparent overthrow of Commerce and trade, and against the great Charter; made proclamation *anno* 16. in all ports of *England* that all Merchants might come *faciendo rectas et debitas consuetudines, nec sibi timeant de malis toltis*, for it had no better name then *Maletolts*.

Magna Charta 30.

Dors claus. an. 16. Hen. 3. n. 20.

Some impositions being laid by *Edward* 1. he in *anno* 25. taketh them away, with promise, that neither he nor his successors should do any such thing without assent of the Parliament, granting in *anno* 31. to the Merchants many immunities, as release of

Statut. an. 25. Edw. 1.

Rot. Parl. 31. Edw. 1. cap. 1. & 2.

of priſage, for which they requite him with ſome increaſe of Cuſtomes, but not as impoſed by his own power: For he in *anno* 34. declareth that no tallage or aide ſhould be leavied without the aſſent of Parliament, nor nothing to be taken of wools by colour of *Maletolt*.

In *Edward* 2. time, it appeareth that levying of new Cuſtomes and raiſing of old, was the deſtruction of Traffique, and therefore repealeth all *Maletoltes*, only in *anno* 11, 12. taketh by way of lone, and with leave of the Merchants, ſome former increaſe upon wools, aſcribing nothing to any ſupream power to impoſe.

Rot. clauſ. an. 11. Edw. 2.

The like did *Ed.* the 3. *anno* 1. confirming in *anno* 2. the great *Charter* for free traffique: but having about *anno quinto* granted certain Commiſſions for a new kind of raiſing tallage, the people complained the year following, whereupon he repealed the ſaid Commiſſions, and promiſeth never to aſſeſſe any, but as in time of his Anceſtors. After in *anno* 11. by reaſon of a Statute then made (reſtraining all men upon pain of death for tranſporting any wools without licence from the King and Councel) *Edward* the third made great advantage by ſelling of diſpenſations of that law, and grounded upon it many impoſitions; but it grew ſo heavy upon the people, that their diſcontentments ſo farre increaſed, that the King was enforced to cauſe the Arch-biſhop of *Canterbury* to perſwade

Rot. fin. 1. Ed. 3. Statut. 2. Ed. 3. cap. 9. Rot. Par. 6. Ed. 3. Stat. 11. Ed. 3. cap. 1.

Ro. Almaign. 12. Edw. 3. memb. 22. indors.

ſwade them to patience by his Godly exhortations, yet notwithſtanding he continued by gentle intermiſſions the advantage he had by that law of *undecimo*, taking an improvement of Cuſtome for opening the paſſage that thereby was ſhut in *anno* 13. until the ſame year the State made *purchaſe* of their former freedome, and diſcharge of the *Malotolt*, by granting the tenth ſheafe and fleece &c.

Stat. 13. Ed. 3. Rot. Parl. 13. Edw. 3. Stat. 14. Edw. 3.

And thus it continued all his raign, being a time of great neceſſity and expence by reaſon of his warres, he ſometimes taking an advantage either to raiſe an impoſition, or elſe to gain an aide from the people in diſcharge thereof, they continually urging the injury in barring them their birth-right: And the King on the other ſide the greatneſſe of his own occaſions, and it may be gathered by Record, that thus it held on untill the 15. *Richard* 2. in which year is the laſt petition againſt impoſitions, generally grounded in likelyhood from the Kings power in reſtraining or permitting trade all the time after, though licences with *non obſtante* were ordinary, yet were they to private perſons and for particular proportions of Commodities, whereby the Kings ſucceeding raiſed no leſſe benefit then by ſale of any general permiſſion. To this of impoſition I may add the rule I find, *anno* 12. *Henry* 6. made in Councel, that the value of all goods for the payment Subſidie, ſhall be rated

Licence granted by Henry 4. Henry 5. Henry 6. to many Merchants with non obſtante any ſtatute.

Ordinat. Concil. an. 12. Hen. 6.

rated of Commodities domeſtique as they may be ſold between Merchant and Merchant: And if forreign, then ſo it ſhall appear upon oath of the Merchant or his Factor, they ſtood them in at the firſt; and the general *Maxime* which limits all regall advantage upon trade of Merchants, is, *ut Cauſa honeſta ſit et neceſſaria, ratio facilis, tempus idoneum.* Merchants.

3. *Farming out of Cuſtomes.*

So did *Edward* 3. with the new and old Cuſtomes at *London* for 1000. markes monethly to be paid unto the Wardrobe. The like he did *anno* 17. Clauſ. anno 5. Edw. 3. Original. 17. Edw. 3. rot. 2.

Richard 2. *anno* 20. letteth out for term of life the Subſidie of Cloth in divers Countries.

And *Edward* 4. *anno.* 1. the ſubſidie and uſuage of cloth.

Thus did *Henry* 8. with his Cuſtomes, and ſince his time, the late Queen, and our now Soveraign Maſter; and it was ſo then in uſe in the beſt governed State *Rome*, which let our portions and *decim's* to the *Publicans.*

KIngs raiſe money, and improve the Revenues of the Crown.

By

By Regalities, { 1. Temporall, as for Or 2. Mixt. } { Liberties. Penalties of Lawes. Letters of Favour.

Liberties.

In granting, restraining or renewing *them.* It is a course usual, that Kings have raised in money by calling in question the Charters and Liberties of Corporations, Leets; Free-Warrens and other Royalties.

Ex Rad. cogshall.

Thus did *Richard* 1. proclaming, *Quod omnes chartæ et confirmationes, quæ prioris sigilli impressione roboraverint, irritæ forent nisi posteriori sigillo roborentur.*

And *Henry* 3. *anno.* 10. enjoyed all *qui suis volebant Libertatibus gaudere, ut innovarent chartas suas de novo Regis sigillo*; getting money thereby.

Rot. Ragman. an. 7. Ed. 7. Rot. Quo warranto 8. Ed. 1.

Edward 1. by divers Commissions with articles (called *Articuli de Ragman*) annexed to them, called in *question* about *anno* 70. all the liberties and freepomes of *England*; *Gilbert de Thorneton* his Atturney putting information by *Quo warranto* against all persons, as well bodies Politick as others; whereby they were inforced a new to renew their Charters and fines for their Liberties.

Rot. Warranto 13. Edw. 3.

The like was in *anno* 13. *Edward* 3. in whose time *anno* 9. all clauses of allowances by Charter of amerciaments, fines, &c. imposed by the Kings Ministers upon any of the Tenants, of other men were adjudged

judged void, and the penalties made payable to the Kings officers, unlesse they made a new purchase of their liberties. And this was one of the usualest and easiest meanes to raise money from the people; because it lighteth onely upon the best abilities. And if there were now but 20. l. taken of every Corporation; of every person that holdeth by Charter his Liberties 5. l. for renewing them: and of every one that claimeth by prescription 10. l. for purchase of a Charter, all which would be easie and acceptable, it would amount to above 100000. l.

For penal Lawes that have been sometimes but with ill successe wrought upon.

When *Richard* 2. *anno* 22. began this course, appointing in all his Commissions and instructions, *Bushey* onely to be of the *Quorum* for compounding with the Delinquents, it wrought in the affection of his people such distaste, that it grew the death of the one and deposition of the other.

Instructio original. 22. Rich. 2.

No lesse fatal was the like to *Empson*: and there is no firing will sooner jarre in the Common-Wealth then this, if it be generally touched.

Process con. Dudley an. 1. Hen. 8.

For letters of Favour

Either for mitigation or dispatch of Justice.

Of the first sort there be many found

in *Henry* 6. and *Edward* 4. time, ſometimes of protection, although by courſe of the Common Law none are warrantable but to ſuch as are going in *obſequium Regis*, or *ibidem moraturi*, ſometimes freeing men from arreſts by calling them up to appear before the Kings Councel: Sometimes in cauſes highly criminal relieving the Priſoner, in commanding the Judges to make ſtay of all proceeding upon ſuppoſal of indirect practiſes until the King was better informed.

Lib. aquitanc. inter. Hen. 7. & Dudley.

Of the ſecond ſort there are many in *Henry* 7. time, where the King hath taken money for writing to the Judges of Aſſize his Letters of favour.

For Offices.

Thus did King *John* with the Chancellor-ſhip, ſelling it for term of life to *Gray* for 5000. markes: divers offices now in the gift of the maſter of the Rolls were engaged to the Chancellour and Treaſurer of *England*, as are to be found in Record of *Hemry* 4. *Henry* 5. and *Henry* 6. to be paſſed by warrant of the Kings hand, and upon ſome conſideration. And *Henry* 7. renewed this courſe, uſing *Dudley* as his inſtrument to compound with ſuitors of thoſe and any other places.

And by that Record we find the Chancellor, the Chief Juſtice, the Keepers of moſt of the Records, the Clerks of the Aſſizes

Aſſizes and peace, the Maſters of his Game and Parks, and what elſe carrying either profit or reputation, paid to the King ſome proportion of *money* for their places. Neither is this different from the courſe of other States. For in *France Lewis* 12. called the Father of his Country, did ſo with all offices not being of *Judicature*, which his ſucceſſors did not forbear. In *Spain* it is uſual, and *Vaſqui* the *Spaniſh* Advocate defendeth the lawfulneſſe of it: And *Charles* the fift preſcribeth it to his ſonne, as a rule in his laſt inſtruction, drawing his ground of reaſon and conveniency, from the example & practiſe of the *See* of *Rome*. The like might be of all inferiour promotions that are or may be in the Kings gift, whether Eccleſiaſtical or Temporal, if they were after the true value in profit and reputation lifted into rankes, according to the ſeveral natures of their imployments reſpectively.

Emilius in vita Lewis 12.

Vaſ. cap. 40. ex inſtructione Caroli 5. to Phil. 2.

For Honours,

And that either by Power legall or Election.

Of the firſt it is only in reſpect of Land, whereby every man is to fine when the King ſhall require, that hath ability to be made a Knight and is not, of this ſort there be plenty of Examples.

The other out of choiſe and Grace, as *Hugo de Putiaco* Biſhop of *Durham*, was by

King *Richard* 1. created Earle of *Northumberland* for a great ſum of money: And I doubt not but many of theſe times would ſet their ambition at as high a price. And for his Majeſty now to make a degree of honour hereditary, as Baronets, next under Barons, and grant them in tail, taking of every one 1000. l. in fine, it would raiſe with eaſe 100000. l. and by a judicious election be a meanes to content thoſe worthy perſons in the Common-Wealth, that by the confuſed admiſſion of many Knight of the *Bath* held themſelves all this time diſgraced.

For Coine and Boullion.

By which although ſome Kings out of a laſt ſhift, have ſeemed to relieve themſelves, yet was it in truth ful of *danger* and diſtruſt to the Commonwealth; being an aſſured token of a bankerupt ſtate: and to the Prince in concluſion of moſt diſadvantage. For the Revenues of the Crown being commonly incertain Rents; they muſt in true value, howſoever in verball ſound, be abated to the proportion that the Money ſhall be abaſed. And every man will rate his commodity in ſale, not according to the accompt of pence or pounds, but to the weight of the pure ſilver conteined in the currant money. As for example, That which was before the decrying of the Coine worth five ſhillings the

the pound-weight, will (if the allay be to the halfe) be held at ten ſhillings; and ſo in every proportion reſpectively. For money is not meerly to be eſteemed in reſpect of the ſculpture or figure; but it muſt value *in pecunia quantum in maſſa:* And ſilver is a commodity as other wares, and therefore holdeth his eſtimation as they do according to the goodneſſe. And the Lord Treaſurer *Burleigh* in *Anno* 1561. when the currant of State-Councel affected an abaſement of coine, after a grave deliberation adviſed the *Queen* from it, and never would give away to any ſuch reſolution in his time. But that benefit which truly the King might more make of Bullion then now he doth, is to erect againe *Cambium Regis* his own exchange. An office as antient as before *Henry* 3. and ſo continued untill the the middle of *Henry* 8. the profit of it being now ingroſſed among a few Gold-Smithes, and would yield above 10000.l. a year if it were heedfully regarded, and then ſhould the King himſelf keep his mint in continual work, and not ſtand at the devotion of others to ſupply *Bullion*, and ſhould never want the materials, if two things were obſerved: The one to permit all men bringing in *Bullion*, to trade outward the value thereof in domeſticke commodities at an abated Cuſtome.

The other to abate the mighty indraught of forraigne manufactures, and unneceſſary wares, that the outward trade

might over-ballance the inward, which otherwise will (as it hath done) draw on this desperate consumption of the Common-Wealth : Which *anno* 27. *Edward* 3. was otherwise, for then the *Exitus* exceeded the *Introitus* by farre , and in the last times of the late Queen as in *anno* 1573. For at this time the unmeasurable use of *Luxurious* Commodities was brought in(as wines, spices, silke, and fine linnens,&c.) for of the latter sort of above ten groats the elle there is above 360000. l. yearely spent,which is half the value of our cloths transported,maketh the State to buy more then they do sell, whereas a good Father of a family ought to be *vindacem* and not *emacem*. Besides the condition of our *People* is now such, that the greater part neither get nor save, which in a private house is an apparent argument of ruining, and must be no lesse in a Common-Wealth. And it is observ'd generally,that hence the want of Bullion now is such, that there is not money in *Specie* sufficient to pay the lenders their principal, so that usury is paid for money upon supposition, and not really.

Ex Scacar inter rememb. Regis 27. Ed. 3.

If then his Majesty shall be pleased by advise of his Councel, to advantage himself any otherwise by *coinage*, it will be safer to do it upon a simple mettall, then by any implyant or better suite, which well governed States both modern and antient used : For *Rome* in her increase and greatest

est pitch of glory had their money *ære, argento, auro puto puro*, and so have all the *Monarchies* absolute at this day in Christendome. And I believe it may be wrought to his Majesty of good value, and to the State of much ease, if it may be put in practise with discreet caution and constant resolution; for the danger onely may be in the venting of the quantity, which may clogge the State with uselesse money, or extension of the example, which may work in by degrees an embasement of Bullion.

The proportion that I would hold beneficial and safe, should be in the masse, at first 120000. l. by which his Majesty should gain 10000. l. clearly: the increase annuall 12000. l. in which his Majesty should gain 1000. l. And the limitation, that none be enforced to take any but in summes under 20. s. and then but the twentieth part proportionably.

Against this some may object, that it will either not advantage the King so much as is projected, either from the difficulty in venting, or facility in Counterfeiting, or else prejudice the estate with a worthlesse money.

The benefit to the King will easily fall out, if he restrain Retailers of victual and small wares from using their own tokens; for in and about *London*, there are above 3000. that one with another cast yearly 5. l. apiece of leaden tokens, whereof the

tenth remaineth not to them at the years end, and when they renew their ſtore, which amounteth to above 15000. l. And all the reſt of this Realme cannot be inferiour to the City in proportion. And the form and figure may with an engine ſo ſubtilly be milled, that the charge will prevent all practiſe of falſe play.

For the prejudice ſince *London*, which is not the 24. part in people of the Kingdome, had in it found above 800000. by a late inquiry by order of the late Queen, and ſo falleth out to be 2 d. a perſon, in the intire ſtate it may be nothing, either of loſſe by the firſt uttering being ſo eaſie, nor burthen any with too great a maſſe at a time, ſince continual uſe will diſperſe ſo ſmall a quantity into ſo many hands. But on the other ſide wil be to the meaner ſort (except the Retailers that made as much advantage formerly of their own tokens, as the King ſhall now) of neceſſary uſe and benefit: For the buyers hereafter ſhall not be tyed to one ſeller and his bad commodities, as they are ſtill, when his tokens, hereafter made currant by authority, ſhall leave him the choiſe of any other Chapman, and to the poor in this time of ſmall charity, it will be of much relief; ſince many are like to give a farthing almes that will not part with a greater ſum.

Beſides, it cannot but prevent much waſte of ſilver, that by the minting pence and half

half pence occaſioned, there will be no cauſe hereafter to cut any Bullion into proportion ſo apt for loſſe: what that hath been may be conjectured, if we mark but of the great quantities from the peny downward ſince *Henry* 8. time ſtamped, how few remain: whereas of all the coines from three pence upward which are manual, plenty paſſe ſtill in daily payment.

Regalities mixt.

As for reſtitution of the temporalities of Abbots and Biſhops:

For which *Henry* 7. received great ſums.

Corrodies in Cathedral Churches.

And having in every Cathedral and Collegiate Church, as incident to his Crown a Corrodary, made money of it, at the higheſt rate he could.

Vacancy of Biſhopricks.

The benefit at the vacancy of any Biſhop ſome Kings have uſed to their beſt advantage, making a circular remove of as many as in reputation and profit were inferiour to the place void.

Con-

Concurrent Jurisdiction as the Pope had in former times.

Besides, there are two of no mean commodity.

The one is grounded upon a concurrent Jurisdiction with every Ordinary in the Diocesse, which the King by having the power *Papall* in that point invested in him by Act of Parliament, may exercise by his Commission, or otherwise remit to the Ordinary for some valuable respect.

Ex composit. original. inter Card. Woolsey, & Archiep. Cant. dated 14 Hen. 8.

Thus did Cardinal *Woolsey* with *Warham* the Arch-bishop, and all other the Bishops of the Kingdome, after he had got his Legative power. And this if it were put in practise, would draw to the King 20000. l. in his Coffers.

Tenths of the Church-Lands now in the Laity.

The other is the short account yielded the King of such Ecclesiasticall tenthes and duties, as were often or Annually paid unto the Pope in former times, and now by Statute invested in the Crown: for in former times the See of *Rome* received them not, as onely out of the meer Spiritualities, but also from out of all the Temporalities of Spiritual persons; which Land being now devided from the Church into the hands of the Laity; yet ought they to pay this dutie, since they were settled in the Crowne by a former Law, and no subsequent ever hath discharged them.

AN ANSWER TO CERTAIN ARGUMENTS

Raised from

Supposed Antiquity,

And urged by some MEMBERS of the lower HOUSE of

PARLIAMENT,

To prove that

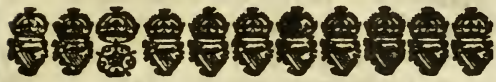
Ecclesiasticall Lawes

Ought to be Enacted by

Temporall Men.

Written by Sir ROB. COTTON Knight and Baronet.

LONDON,
Printed in the year 1651.



AN

ANSWER

TO CERTAIN

ARGUMENTS

Raised from

Supposed Antiquity,

And urged by some Members of the lower House of

PARLIAMENT,

To prove that

Ecclesiasticall Lawes

Ought to be Enacted by

Temporall Men.

WHat, besides self-regard, or siding faction, hath been the main reason of the lower *Lay-house* labour in Parliament, to deal with lawes of the Church, the milder members have yielded a Right which they would maintain by former Pre-

3. Reasons out of President.

Presidents, raising the same from
1. Primitive use.
2. Middle practise.
3. Interrupted continuance.

1. Imperial constitutions.
2. Saxon laws.
3. Acts in Parliament.

Professing the same by the lawes of
1. The *Romane Empire*.
2. The *Saxon* Kings.
3. The *English* Parliaments, so to do.

Which since it may raise a prejudice to the Churche's peace, or to the Soveraign's power, unopposed; I will make way (in a word or two) to the better answer of some other pen. What they say is not to be denied, that in the course of civil lawes under the Christian Emperors, there be often constitutions Ecclesiastical; and in the Councels of the Church (frequent) the Soveraigne's power, and sometimes the presence of lay-Ministers; yet may their assertion admit to the first, this answer of *Justinian*; *Principes, Sapienter, Episcoporum monita, pro fide & Religione Christiana, Leges Synodicis Canonibus conformes edidere, rectè judicantes, Sacerdotum Sanctiones meritò Majestatis Regiæ nutu roborari.* So that those decrees of the Civil Lawes, will prove but confirmatives of former *Canons*, as may be gathered by that of *Valentinian* and *Martian* Emperors, who wrote unto *Paladius*, their *Præfectus Prætorii*, that all constitutions, that were against the *Canons* of the Church should stand void. And to the second, that their presence was to dignifie, and not to dispute; the direction proveth,

Justinian.

Tripartita Historia.

proveth, that the Emperor *Theodosius* gave to *Candidianus* an Earle, by him to the *Ephesian* Councel sent; *Non ut quæstiones seu expositiones communicaret, cùm sit illicitum cum, quienō sit in ordine sanctissimorū Episcoporū, Ecclesiasticis tractatibus intermisceri.* And *Valentinian* the elder, though petitioned by the Bishops to be present at their Synod, said; *Sibi, qui unus è laicorum numero esset, non licere hujusmodi negotiis se interponere.* And by the Councel of *Carthage* and *Affrican*, likewise it appeared; that even Princes would intermeddle with these matters, but *Sæpius rogati ab Episcopis.* And the Emperor *Gratian* taught, as *Zozimus* saith; *Omnes Laicos nihil potestatis in res Ecclesiasticas posse sibi vindicare.* And the former Emperor enacted; *In causa Ecclesiastici alicujus ordinis eū judicare debere, qui nec munere impar est, nec jure dissimilis, Sacerdotes de Sacerdotibus judicare.* According to that saying of *Constantine* the Great; *Vos enim à Deo nobis dati estis Dii, & conveniens non est ut homo judicet Deos.* Thus then stood the practise of the primitive Church; which when it was in those times otherwise, as under *Constantius* the *Arrian*, *Athanasius* saith of him: *Hæreseos veneno imbutos milites, Sicarios, Eunuchos Comites, faciebat Sacerdotum Judices, & cogebat umbratiles Synodas, quibus ipse cum monstris illis præsiperet.* Whereas otherwise that Emperor, even in the height of *Pagan* Greatnesse, ascribed to their *Pontifices* and *Sacerdotes* in Common Right, *Propter Religionem comitia habere*

Distinct. 196. I.

Nicephor. lib. 11.

Con-cil. { Carth. Affric.

Zozimus.

Ambros. li. 5. Epist. 32.

Ruffinus Eccles. hist. lib. 1.

Athana epist. ad solit. vitam agent.

Dionysius Halicarn.

habere propria, and that *Stabili Sententiâ ratum erat, quod tres Pontifices communi decreto statuissent.*

The second Objection. Ecclesiastical Lawes enacted in Parliament.

To the second, as it is in the former true, that many Canons of the Church, are interlaced with the Common-wealths, although the *Saxon* Lawes, and that the establishment should be by Parliament, which they infer out of the *Frontispian*, of *Inas* Statutes in these words: *Ego Inæ Rex; ex tractatione Episcoporum, & omniũ Aldermannorum meorum, & seniorum sapientum Regni mei, & confirmatione Populi mei*; do ordain &c. Yet may receive this answer. First, that the Commons did but confirme and not dispute; which to this day is in their summons comprized only *ad consuetudinem.* But whosoever shall collate the transcript copie with the originall, called *Textus Roffensis*, will find these ordinances, not called *Leges*, but *Synodalia*, and almost all by the King and Church-men onely made. Neither was it new in this Isle that Priests directed alone the government, when as the best Record of our eldest memory saith, that the *Druides*, (a religious *Pagan* order) not only *divinis intersunt*, *Religiones interpretantur*, but *de omnibus* (as *Cæsar* saith) *controversiis publicis privatisque constituunt, sive de hereditamento, sive de finibus, & præmia & pœnas*

Saxon Lawes.

Leges Inæ.

Textus Roffensis.

pænas constituunt. And if any, *sive privatus, aut populus decreto eorũ non steterit, sacrificiis interdicunt.* And this *excõmunication* amongst them, was *pæna gravissima.* Neither did the times of Christianity here bereave the Church of all such will. For in the *Saxon* time they intermedled in the framing of the Temporal Lawes, and ought, as appeareth by an Ordinance of that time *de Officiis Episcopi: Cum seculi judicibus interesse ne permittent si possint, ut illinc aliqua pravitatum germina pullulaverint.* And surely, since these times until of late, the inferiour Ministers of the Church, aswell as Bishops had suffrage in Parliament. For *John de Rupescissa* (a story as old as King *John*'s time) saith, *Anno* 1210. *Convocatum est Parliamentum Londoniæ, Præsidente Archiepiscopo cum toto Clero. & totâ sectâ Laicali.* And in the 8. of *Edward* the 3. the Members of Parliament defective in their appearance, the King chargeth the Arch-bishop to punish the defaults of the Clergy, as he would, the like touching the Lords and Commons. And in third of *Richard* the second, against a Petition in Parliament contradicting Provisions, the Prelates and whole Clergy, make their potestations; And to a demand of the Lay-Commons, for the King's aide the year following, the whole Clergy answered, that they used not to grant any but of their free will. And in the eleventh of the same King, the Arch-bishop of *Canterbury* made openly in Parliament

Leges Regum Saxorum.

Eulogium.

All the Clergy members of Parliament proved by Record.

Rot. Parl. 18. Edw. 3.

Rot. Parl. an. 3. Rich. 2.

Rot. Parl. an. 4. Rich. 2.

Rot. Parl. an. 11. Ri. 2. 11. 9.

liament a solemne protestation for himselfe, and the whole Clergie of his Province, entered by word; the effect whereof was, That albeit they might lawfully be present in all Parliaments, yet for that in those Parliaments matters of treason were to be intreated of, whereas by the Canon-law they ought not to be present, they therefore absented themselves, saving their liberties therein otherwise.

Rot. Parl. an. 21. Rich. 2. n. 9. & 10.

And in the 21. of *Richard* the 2. for that divers judgements were heretofore undon; for that the Clergy were not present: the Commons prayed the King, that the Clergie would appoint some to be their common Proctor, with sufficient authority thereunto. The Bishops and Clergy therefore being severally examined, appointed Sir *Thomas Piercy* their Proctor to assent, as by their Instrument appeareth.

Rot. Parl. an. 21. Rich. 2. n. 51.

And the same year, upon the devise of Sir *Thomas Bussey*, most of the Bishops and Lords were sworne before the King again, upon the crosse of *Canterbury*, to repeale nothing in this year enacted. So did sundry the Proctors of the Clergy, and most of the Commons, by holding up one of hands, affirmed that they the same would do.

2. Ric. 2. n. 58.

In the judgement of the *Duke* of *Norfolke*, and *Earle* of *Warwick* the same year, the name and assent of the Procurator of the Clergy alleadged. And in the first of *Henry* 4. the Bishop of *Assaph*, for Arch-bishops

1. Hen. 4.

and

and Bishops; the Abbot of *Glassenbury*, for all Religious Persons; the Earle of *Gloucester*, for Dukes and Earles; the Lord of *Barkley*, for Barons and Baronets; Sir *Thomas Irpingham* Chamberlain, for Batchelors and Commons of the South; Sir *Thomas Gray*, for Batchelors and Commons of the North; Sir *William Thirming* and *John Mekham* Justices, for the whole Estates, came to the Tower to King *Richard*, to whom Sir *William Thirming*, for and in the name of them all, pronounced the sentence of deposition, and the words or resignation of homage and loyalty.

And when it was enacted *anno 6. Henry 6.* by the King, Lords temporal and Commons, that no man should contract or marry himself to any Queen of *England*, without the special licence and assent of the King, on pain to lose all his goods and lands; The Bishops and all the Clergy to this Bill assented, so farre as it was not against the law of God. And thus far for answer to the second part. Rot. Parl. an. 6. He. 6. n. 27.

The third Reason. Ecclesiasticall lawes enacted in Parliament.

The last, which they granted from Presidents, Parliaments since the Conquest, they infer out of the Phrase, and out of the practise; The first by these words: *Rex Wintoniæ celebravit magnum Concilium coram Episcopis, Comitibus, & Baronibus*, mistaking William Malmesbury.

staking the word, as intending a Provincial Synod, whereas it was in those daies equal and usual for their Parliament, that *French* phrase never having admission in that sence here until the time of *Henry* 2. and then but rarely. That great assembly being formerly instiled *Magnum Consilium*; and until of late often enjoyed the same name. And this is evident out of the words of *Benedictus Abbas* in the life he wrote of the 2. *Henry*; *Circa festum sancti Pauli, venit Dominus Rex usque Northampton, & magnum ibi celebravit Consilium de Statutis Regni sui coram Episcopis, Comitibus & Baronibus terræ suæ, & per Consilium Militum & hominum suorum.* Here the intent manifesteth the nature of that assembly, and the fuller in that the same Author in the same year, saith, that *Richardus Cantuar. Archiepiscopus*, and *Rogerus Eboracensis cum Suffraganeis suis congregatis apud Westmonasterium in Capella Monachorum infirmorum tenuerunt Consilium*; or their convocation; which had been needlesse if in their first, they might have done their Church-affaires.

Lib. Ecclisiæ Cantuar.

Vita Hen. 2.

Here might I enter into a large and just discourse, as well of the authority as antiquity of their Convocation or Synod Provincial, no lesse antient, as *Beda* mentioneth, then in the year 686. when *Austin*, *adjutorio Regis &c.* assembled in Councel the *Brittain* Bishops; from which unto this day there is successive Record of Councels or Convocations, lesse interrupted

Beda.

Provincial Constitutions.

rupted then of Parliaments.

Practise.

Now touching our practise to ordain in Parliaments Lawes Ecclesiastical, either meer or mixt, although it be by Record evident, yet must it admit this difference: First that it sprung not from onr dispute, or desire, but solely from the Petitions of the Church, as usual is in all the Rolls of Parliament, receiving their distinct title from those of the Commons. And this they did to adde *Seculare Brachium* to their former Canons, too weak to reach to corporal punishments; as in the fift of *Richard* 2. when to suppresse the Schismes, the Clergy became in Parliament the Petitioners to the King and Laity; where these words of their assistance are, excluding the Commons from any power of advice: *Habitâ prius bonâ & maturâ deliberatione de communi Consilio ipsius Archiepiscopi, Suffraganeorum suorum, aliorumque Clericorum, super quo idem Archiepiscopus supplicavit, ut pro debita ca stigatione illorum qui conclusiones Schismaticas prædicare voluerint, animo obstinato dignaremur apponere brachium Regiæ potestatis eidem.* And this aide was in order in the Conquerors time; who by edict commanded, that every Marshal, *Episcopo & Deo faceret rectum secundùm Canones & Episcopales leges.* Which if he doth not, after excommunication, *Fortitudo & Justitia Regis ad hibeatur.* And this

Rot. Parl.

Claus. 5. Rich. 2.

Charæ Anti-quæ. LB.

this even in the Primitive Church, was thought convenient; because, as Saint *Ambrose* saith, for the like intent, to the Emperor *Valentinian*; *Non tantas vires sermo meus habiturus est pro Trinitate bellum gerens, quantum edictum tuum.* Hence it is that at this day, the King's authority is annexed ever to the Convocation; as in the antient Church were the like decrees of Kings; as those of *Erwigius* ratifying the twelfth Councell of *Toledo*. *Nemo illiciator vel contemptor vigorem his Institutionibus subtrahat, sed generaliter per cunctas regni nostri provincias hæc Canonum instituta nostræ gloriæ temporibus acta, & autoritatis debitæ fastigia præpollebunt, & irrevocabili judiciorum exercitio prout constituta sunt in omnibus Regni nostri Provinciis celebres habebuntur. Si quis autem hæc instituta contemnat, contemptor se noverit damnari sententiâ; Id est, ut juxta voluntatem nostræ gloriæ, & excommunicatas à nostro cætu resiliat; & in super decimam partem facultatis suæ fisci partibus sociandam, amittat.* But that the Church-lawes ever moved from the lay-members, I take it as farre from President, as it is besides the nature of their Commission: The Bishops and Clergy being onely called in the Writ to that service, the word being, to come *in fide & delectione; ad declarandum Consilium & avisamentum, & ad consentiendum iis quæ tunc de avisamento & assensu Cleri nostri* (and not the Commons) *contigerit affirmari.* But if any shall object unto me, that many laws, as

Ambrosius.

Concil. 11. Toletan.

Ad consentiendum. Writ of summons. Rot. claus. an. 22. Rich. 2. m. 7.

as that of the Supremacy in *Henry* 8. time, had first the ground in Parliament; it is manifested, by the dates of their acts in convocations, that they all had properly in that place the first original. And that this was the use of old, nothing will leave it so cleer, as to observe the fruitlesse successe of the Laity, in all their endeavours to establish Ecclesiastical lawes; And this I will manifest by the Kings answer out of Record, so farre as the Rolls of Parliament will admit me, successively. Until the 18. of *Edward* the first, there is no Record extant; but in that the Commons petition to the King, that a law may be made against Usurers; The King gave answer, that it must be remedyed, *coram Ordinariis*. And when they desired remedy, *de multimodis injustis vexationibus eis factis per Officiales & alios ministros Ecclesiæ*; The King replyed; *Cancellarius emendat in temporalibus*; *Archiepiscopus faciat in spiritualibus*. From hence there is a lack of Record neer to the 8. of *Edward* 3. In which Parliament the Commons desire an Act to restrain the Clergie in their trivial citations; whereunto they received from the King but this answer only; That the King will charge the Bishops to see it remedyed. And the first of *Richard* the 2. preferring the like petition against corruption of Ordinaries, to do according to the Lawes of Holy Church. And in the fift of the same King, they complain against abuses in Ecclesiasticall

Archivis. Archiepis.

Rot. Parl. 18 Edw. 1.

Usurie.

Vexation by Ordinaries.

Rot. Parl. 8. Edw. 3.

Citations.

Rot. Parl. an. 1. Rich. 2.

Pecuniarie paines.

5. Rich. 2.

Ecclesiasticall Courts.

cal Courts. *Respons.* The King will charge the Clergy to amend the same.

Tythes. And in the 15. year, when they required an Act to declare the age of the titheable wood; they had for answer, The King would move the Bishops for order, between this and the next Parliament.

17.Rich.2. n. 43. And in the 17. of *Richard* 2. when they petitioned for a residing learned Ministerie, so as the Flock for want might not perish; they had replyed, That the King willeth the Bishops to whom that office belongeth, to do their duties.

Learned Ministery;

Rot.Parl.an.2. Hen.4.n.44. *Henry* the 4. in his second year, desired by the Lords and Commons to pacify the Schisme of the Church; Answereth, he will charge the Bishops to consider the same. And in his fourth year, being importuned for an Act for residencie of Ministers; replyed *Le Roy command au Prelats & perentre cy ils ent purvoient de remedie.* And in the eleventh of the same King, to the like petition; *Respons: Ceste matiere appartient a St. Eglise & remede en la darraine Convocation.*

4.Hen.4.

11.Hen.4.

Rot.Parl.an.1. Hen.5. In Parliament under the 5. *Henry*, and his first year, the King answereth the Commons petition, against oppressing Ordinaries; If the Bishops do not redresse the same, the King will.

Rot.Parl.an.3. Hen.6. And in *Anno* 3. *Henry* 6. to a Petition that Non-Residentes should forfeit the profit of their living; gave answer, that he had delivered the Bill to my Lord of

Canterbury

Canterbury, and semblably to my Lord of *York*; charging them to purvey meanes of remedy.

And in the year following, to a petition that Patrons may present upon *Non-Residencie*; *Respons*: There is remedy sufficient in the Law spirituall. Rot. Parl. an. 4. Hen. 6.

Since then it is plain by these rehearsed answers, that from the Conquest, they have received but weak admittance: And by the edict of the first King *William* in these words, a sharpe restraint; *Defendo & mea authoritate interdico, ne ullus laicus homo de legibus quæ ad Episcopum pertinent se intromittat.* Chartæ Antiquæ B.B. And that the *Saxon* Synodals, are rather Canon-laws, then Lay-mens Actes. Leges Saxon. And the practise of the primitive Church, if well understood, but a weak prop to their desire; It may not seem distastful from the King (walking in the steppes of his Ancestors, Kings of this Land) to return (as formerly) the Commons desires to their proper place, the Church-mans care. And to conclude this point in all Parliaments, as *Martian* the Emperor did the *Chalcedon* Councel; *Cesset jam profana contentio; nam verè impius & sacrilegus est, qui post tot sacerdotum sententiam, opinioni suæ aliquid tractandum reliquit.* Chncil. Chalc. And with the letter of Gods Law; *Qui superbierit nolens obedire sacerdotis imperio, ex decreto Judicis morietur homo.* Levit. 14.

A

C
(C

C

F
W

P

THE ARGUMENT

Made by the

COMMAND

Of the House of

COMMONS,

(*Out of the Acts of Parliament*, and Authority of Law expounding the same) at a

CONFERENCE

with the

LORDS,

CONCERNING THE

LIBERTIE

of the person of every

FREEMAN.

Written by Sir ROB. COTTON
Knight and Baronet.

LONDON,
Printed in the year 1651.

THE ARGUMENT

Made by the

COMMAND

Of the House of

COMMONS,

(out of the Acts of Parliament, and Authority of Law, expounding the same) at a Conference with the

LORDS,

Concerning the Liberty of the person of every

FREEMAN.

My LORDS,

UPon the occasions delivered by the Gentlemen, your Lordships have heard, the Commons have taken into their serious consideration the matter of the personal liberty: and after long debate thereof

of on divers daies, aſwell by ſolemne arguments as ſingle proportions of doubts and anſwers, to the end no ſcruples might remain in any mans breaſt unſatisfyed; They have, upon a full ſearch and clear underſtanding of all things pertinent to the queſtion, unanimouſly declared, That no freeman ought to be committed, or detained in priſon, or otherwiſe reſtrained, by the command of the King, or the Privy Councel, or any other, unleſſe ſome cauſe of the commitment, deteinor, or reſtraint be expreſſed, for which by law he ought to be committed, detained or reſtrained: And they have ſent me with other of their Members to repreſent unto your Lordſhips the true grounds of ſuch their reſolution, and have charged me particularly (leaving the reaſons of law and Preſidents for others) to give your Lordſhips ſatisfaction, that this Liberty is eſtabliſhed and confirmed by the whole State, the King, the Lords ſpiritual and temporal, and the *Commons*, by ſeveral Acts of Parliament, the authority whereof is ſo great, that it can receive no anſwer, ſave by interpretation or repeale by future Statutes: And thoſe that I ſhal mind your Lordſhips of, are ſo direct to the point, that they can bear no other expoſition at all; and ſure I am, they are ſtill in force.

The firſt of them is the grand Charter of the liberties of *England*; firſt granted 17. *Johannis Regis* and revived 9. *Hen.* 3. and ſince

ſince confirmed in *Parliament* above 30. times. The words are theſe, *cap.* 29. *Nullus liber homo capiatur vel impriſonetur, aut diſſeiſetur de libero tenemento ſuo, vel Libertatibus; vel liberis conſuetudinibus ſuis, aut utlagetur, aut exuletur, aut aliquo modo deſtruatur: nec ſuper eũ ibimus, nec ſuper eum mittemus, niſi per legale judicium parium ſuorũ, vel per legem terræ.* Theſe words *Nullus liber homo &c.* are expreſſe enough. Yet it is remarkable, that *Matthew Paris* (an Author of eſpecial credit) doth obſerve *fol.* 432. that the charter 9. *Henry* 3. was the very ſame as that of the 17. of King *John* (*in nullo diſſimilis* are his words) and that of King *John* he ſetteth down *verbatim fol.* 342. And there the words are directly, *Nec eum in carcerem mittemus*: and ſuch a corruption as is now in the point might eaſily happen betwixt 9. *Henry* 3. and 28. *Edward* 1. when this charter was firſt exemplifyed: but certainly, there is ſufficient left in that which is extant to decide this queſtion: for the words are, that no Freeman ſhall be taken or impriſoned but by the lawful judgement of his *Peers* (which is by Jury; *Peers* for *Peers*; ordinary Juryes for other, who are their *Peers*) or by the law of the land: Which law of the land muſt of neceſſity be underſtood to be of this notion, to be by due proceſſe of the law; and not the law of the land generally: otherwiſe it would comprehend Bondmen (whom we call Villaines) who are excluded by the word

liber:

liber: For the general law of the land doth allow their Lords to impriſon them at their pleaſure without cauſe, wherein they onely differ from the Freemen, in reſpect of their perſons, who cannot be impriſoned without a cauſe. And that this is the true underſtanding of theſe words, *per legem terræ*, will more plainly appear by divers other Statutes that I ſhall uſe, which do expound the ſame accordingly. And though the words of this grand Charter be ſpoken in the third perſon; yet they are not to be underſtood of ſuits betwixt party and party; at leaſt not of them alone, but even of the Kings ſuits againſt his Subjects, as will appear by the occaſion of the getting of that charter; which was by reaſon of the differences between thoſe Kings and their People; and therefore properly to be applyed unto their power over them, and not to ordinary queſtions betwixt Subject and Subject.

Secondly, the words *per legale judicium parium ſuorum* immediately preceding the other of *per legem terræ*, are meant of trials at the Kings ſuit, and not at the perſecution of a Subject. And therefore if a *Peer* of the Realme be arrained at the ſuite of the King upon an Indictment of murder, he ſhall be tryed by his *Peers*; that is by Nobles: but if he be appealed of murder by a Subject, his tryall ſhall be by an ordinary Jury of 12. Freeholders, as appeareth in 10 *Edward* 4. 6. 33. *Henry* 8. *Brooke title*

tryals

trials 142. *Stamf.* pleas of the Crown *lib.*3. *cap.* 1. *fol.* 152. And in 10 *Edward.*4. it is ſaid, ſuch is the meaning of *Magna Charta.* By the ſame reaſon therefore, as *per judicium pariuṁ ſuorum* extends to the King's ſuit; ſo ſhall theſe words *per legem terræ.* And in 8. *Edward* 3. *rot.Parl.m.*7. there is a petition, that a Writ under the privy Seale went to the Guardian of the Great Seal, to cauſe lands to be ſeized into the King's hands; by force of which there went a Writ out of the Chancery to the Eſcheator, to ſeize againſt the form of the Grand Charter, that the King or his Miniſters ſhall out no man of Free-hold without reaſonable Judgement, and the Party was reſtored to his land; which ſheweth the Statute did extend to the King. There was no invaſion upon this perſonal Liberty untill the time of King *Edward* 3. which was eftſoon reſented by the Subject: For in 5. *Edward* 3. *cap.* 9. it is ordained in theſe words: It is enacted, that no man from henceforth ſhall be attached by any accuſation, nor fore-judged of life or limb, nor his lands, tenements, goods nor Chattles ſeized into the King's hands againſt the forme of the great Charter and the law of the Land.

25. *Edward* 3. *cap* 4. is more full; and doth expound the words of the grand Charter; and is thus: Whereas it is contained in the great Charter of the *Franchiſes* of *England*, that none ſhall be impriſon-

ed, nor put out of his Freehold, nor of his Franchise nor free Custome, unlesse it be by the law of the Land. It is accorded, assented and established, that from henceforth none shall be taken by petition or Suggestion made to our Lord the King, or to his Counsel, unlesse it be by indictment or Presentment of his good and lawfull People of the same Neighbourhood where such deeds be done, in due manner, or by proces made by Writs Original at the common law, nor that none be put out of his Franchises nor of his freeholds, unlesse he be due brought in answer and forejudged of the same by the course of the law, and if any thing be done against the same, it shall be redressed and holden for none.

Out of this Statute I observe, that what in *Magna Charta* and the Preamble of this Statute, is termed by the law of the Land, is by the body of this act expounded, to be by processe made by Writ Original at the Common law; which is a plain interpretation of the words, law of the Land, in the Grand *Charter*. And I note that this Law was made, upon the Commitment of divers to the Tower, no man yet knoweth for what.

28. *Edward* 3. *cap.* 3. is yet more direct (this liberty being followed with fresh suit by the Subject) where the words are not many, but very full and significant: That no man, of what Estate or conditi-

on

on that he be, ſhall be put out of his lands or tenements, nor taken, nor impriſoned, nor diſinherited, nor put to death without he be brought in anſwer by due proceſs of the law. Here your Lordſhips ſee, the uſual words, of the law of the land, are rendered by due proceſſe of the law.

36. *Edward* 3. *Rot Parl.n.* 9. amongſt the Petitions of the Commons one of them (being tranſlated into *Engliſh* out of *French*) is thus. Firſt, that the great Charter, and the Charter of the forreſt, and the other Statutes made in his time, and in the time of his Progenitors, for the profit of him and his Communalty, be well and firmely kept, and put in due execution, without putting diſturbance, or making arreſt contrary to them, by ſpecial command, or in other manner.

The anſwer to the Petition, which makes it an Act of Parliament, is: Our Lord the King, by the aſſent of the Prelates, Dukes, Earles, Barons, and the Communalty hath ordained and eſtabliſhed; that the ſaid Charters and Statutes be held and put in execution according to the ſaid Petition. It is obſerveable that the Statures were to be put in execution according to the ſaid Petition; which is, that no arreſt ſhould be made contrary to the Statutes, by ſpecial command. This concludes the queſtion, and is of as great force as if it were printed. For the Parliament-Roll is the true warrant of an act,

and many are omitted out of the books that are extant.

35. *Edward* 3. *Rot.Parl. nu.*20. explaineth it further. For there the Petition is: Item, as it is contained in the grand Charter and other Statutes, That no man be taken or imprisoned by special command without Indictment or other proces to be made by the law upon *them*, aswel of things done out of the *forrest* of the *King*, as for other things; That it would please our said Lord, to command those to be delivered, that are so taken by special command, against the form of the Charters & Statutes aforesaid.

The answer is, The King is pleased, that if any man find himself grieved, that he come and make his complaint, and right shall be done unto him.

37. *Edward* 3. *c. p* 18. agreeth in substance when it saith, Though that it be contained in the great Charter, that no man be taken, nor imprisoned, nor put out of his Freehold without processe of the law: Nevertheless divers people make false suggestions to the King himself; as well for malice as otherwise, whereof the King is often grieved, and divers of the Realm put in damage, against the forme of the the said Charter, wherefore it is ordained that all they which make suggestions, shall be sent with the same suggestions before the Chancelour, Treasurer and his grand Councel; and that they there find surety to pursue their suggestions: and incur the same

ſame pain that the other ſhould have had if he were attainted, in caſe that his ſuggeſtion be found evil ; and that then proceſſe of the law be made againſt them, without being taken and impriſoned againſt the form of the Charter and other Statutes. Here the law of the land in the grand Charter is explained to be without proceſſe of the law.

42. *Edward* 3. at the requeſt of the Commons by their Petitions put forth in this Parliament, to eſchue miſchief and damage done to divers of his Commons by falſe Accuſers, which oftentimes have made their accuſation more for revenge and ſingular benefit then for the profit of the King or of his people; which accuſed perſons, ſome have been taken and ſometime cauſed to come before the Kings Councel, by Writ or otherwiſe, upon grievous paines againſt the Law ; It is aſſented and accorded for the good governance of the Commons, that no man be put to anſwer without preſentment before Juſtices or matter of Record, or by due proceſſe and Writ original according to the old law of the Land : and if any thing from henceforth be done to the contrary, it ſhall be void in the law and holden for error.

But this is better in the Parliament-Rol, where the petition and anſwer (which make the Act) are ſet down at large 42. *Edward* 3. *Rot. Parl. n.* 12. The petition,

Item, becauſe that many of the Commons are hurt and deſtroyed by falſe accuſors; who make their Accuſations more for their revenge and particular gaine, then for the profit of the King or his people: And thoſe that are accuſed by them, ſome have been taken, and others are made to come before the King's Councell, by Writ or other Command of the King, upon grievous pains, contrary to the law. That it would pleaſe our Lord the King, and his good Councel, for the juſt Government of his people, to ordain, that if hereafter any accuſer purpoſe any matter for the profit of the King, that the matter be ſent to the Juſtices of the one Bench or the other, or the Aſſizes, to be enquired and determined according to the law, and if it concern the Accuſer or party, that he take his ſuite at the common law, and that no man be put to anſwer, without preſentment before Juſtices, or matter of Record, or by due proceſſe and Original Writ, according to the antient law of the Land; and if any thing henceforward be done to the contrary, that it bevoide in law, and held for error. Here, by due proceſſe and Original Writ according to the antient law of the Land, is meant the ſame thing as *per legem terræ* in *Magna Charta*. And the abuſe was, that they were put to anſwer by the commandment of the King. The King's anſwer is thus. Becauſe that this Article is an Article of the Grand Char-

Charter: The King will that this be done as the petition doth demand. By this appeareth that *per legem terræ* in *Magna Charta*, is meant by due processe of the law.

Thus your Lordships have heard Acts of *Parliament* in the point. But the Statute of *Westminster* the first *cap.* 15. is urged to disprove this opinion, where it is expresly said, that a man is not replevisable who is committed by command of the King. Therefore the command of the King without any cause shewed, is sufficient to commit a man to prison. And because the strength of the Argument may appear, and the answer be better understood, I shall read the words of that Statute, which are thus: And forasmuch as Sheriffs and others, which have taken and kept in prison, persons detected of felonie, and oftentimes have let out by Replevin, such as were not replevisable; because they would gaine of the one party, and grieve the other. And forasmuch as before this time it was not certainly determined what persons were replevisable, and what not, but onely those that were taken for the death of a man, or by commandment of the King, or of his Justices, or for the Forest; It is provided, and by the King commanded, that such prisoners as before were outlawed, and they which have abjured the Realme, Provers, and such as be taken with the manner, and those which have broak the Kings prison,

Thieves openly defamed and known, and ſuch as be appealed by Provers, ſo long as the Provers be living, if they be not of good name, and ſuch as be taken for burning of houſes feloniouſly done, or for falſe money, or for counterfeiting the King's Seal, or perſons excommunicate taken at the requeſt of the Biſhop, or for manifeſt offences, or for treaſon touching the King himſelf, ſhall be in no wiſe repleviſable, by the common Writ or without Writ. But ſuch as be indicted by Larcenie by Inqueſts taken before Sheriffs or Bayliffes by their Office, or of light ſuſpition, or for petty larcenie that amounteth not above the value of 12.d. if they were not guilty of ſome other larcenie aforetime, or guilty of receipt of Felons, or of *commandment* or force, or of aide in felony done, or guilty of ſome other treſpaſſe for which one ought not to loſe life or member; and a man appealed by a Prover; after the death of the Prover, if he be no common Thief, nor defamed, ſhall from henceforth be let out by ſufficient Surety, whereof the Sheriffe will be anſwerable, and that without giving ought of their goods. And if the Sheriff or any other let any go at large by Surety that is not repleviſable, if he be the Sheriffe, Conſtable, or any other Bayliff of fee which hath keeping of priſons, and thereof be attainted, he ſhall loſe his Fee and Office for ever. And if the Underſheriff, Conſtable, or Bayliff of ſuch as hath

fee

fee for keeping of priſons, do it contrary to the will of his Lord, or any other Bayliffe being not of fee, they ſhall have 3. years impriſonment, and make a fine at the King's pleaſure. And if any withhold priſoners repleviſable after they have offered ſufficient ſurety, he ſhall pay a grievous amerciament to the King; and if he take any Reward for the deliverance offuch, he ſhall pay double to the priſoner, and alſo ſhall be in the great mercy of the King. The anſwer is, it muſt be acknowledged, that a man taken by the command of the King is not repleviſable, for ſo are the expreſſe words of this Statute, but this maketh nothing againſt the declaration of the Commons: for they ſay not, that the Sheriffe may replevin ſuch a man by Surety, *Scilicet Manucaptores:* but that he is baileable by the Kings Courts of Juſtice: for the better apprehending whereof, it is to be known, that there is a difference betwixt Repleviſable, which is alwaies by the Sheriffe upon pledges or Sureties given, and Baileable by a Court of Record, where the Priſoner is delivered to his baile, and they are his Jailors, and may impriſon him, and ſhall ſuffer for him body for body, as appeareth 33. & 36. *Edward* 3. in the title of *Mainpriſe plit.* 12. 13. where the difference betwixt baile and *Mainpriſe* is expreſly taken. And if the words of the Statute it ſelf be obſerved, it will appear plainly that it extends to the

Sheriff

Sheriffe and other inferior Officers, and doth not bind the hands of the Judges. The preamble, which is the key that openeth the entrance into the meaning of the Makers of the law) is: Forasmuch as Sheriffes, and others, which have taken and kept in prison persons detected of felony. Out of these words I observe, that it nominateth Sheriffs: and then if the Justices should be included, they must be comprehended under the general word, *Others*; which doth not use to extend to those of an higher rank, but to inferiors. for the best, by all course is first to be named; and therefore if a man bring a writ of Customes and services, and name Rents and other things, the general words shall not include homage, which is a personal service and of an higher nature; but it shall extend to ordinary annuall services, 31. *Edward* 1. *droit* 67. So the Statute of 13. *Elizabeth cap.* 10. which beginneth with Colledges, Deanes and Chapters, Parsons and Vicars, and concludes with these words, *and others (and others having spiritual promotions)* shall not comprehend Bishops, that are of an higher degree, as appeareth in the Arch-bishop of *Canterbury* his case reported by Sir *Edward Cooke lib.* 2. *fol.* 466. And thus much is explained in this very Statute, to the end when it doth enumerate those were meant by the word *other*, namely Undersheriffes, Constables, Bayliffes. Again, the

the words are Sheriffs and others, which have taken and kept in prison. Now every man knoweth, that Judges do neither arrest nor keep men in prison; that is the office of Sheriffs, and other inferior ministers; Therefore this Statute meant such only, and not Judges. The words are further, that they let out by replevin such as were not repleviable. This is the proper language for a Sheriff. Nay more expresse afterwards, in the body of the Statute: That such as are there mentioned, shall be in no wise replevisable by the common Writ (which is *de homine replegiando*, and is directed to the Sheriff) nor without Writ (which is by the Sheriff, *Ex Officio*) But that which receives no answer, is this: That the command of the Justices (who derive their authority from the Crown) is there equalled as to this purpose with the command of the King; and therefore by all reasonable construction, it must needs relate to Officers that are subordinate to both, as Sheriffes, Undersheriffes, Bayliffes, Constables, and the like: and it were an harsh exposition to say, that the Justices might not discharge their owne command; and yet that reason would conclude as much. And that this was meant of the Sheriffes and other Ministers of Justice, appeareth by the Recitall of 27. *Edward* 3. *cap.* 3. and likewise by *Fleta*, a Manuscript so called, because the Author lay in the Fleet when he made the book.

For

For he *Lib.* 2. *cap.* 52. in his Chapter of Turnes, and the Viewes of the hundred Courts in the Countrey, and setteth down the Articles of the charges that are there to be inquired of, amongst which, one of them is, *De replegialibus injustè detentis, & irreplegialibus dimissis*; which cannot be meant of not bailing by the Justices. For what have the *inferior Courts* of the Countrey to do with the acts of the Justices? And to make it more plain, he setteth down in his Chapter (that concernes Sheriffes only) the very Statute of *West.* 1. *cap.* 15. which he translates *verbatim* out of the *French* into *Latine*, save that he renders, Taken by the command of the Justices thus, *Per judicium Justitiariorum*, and his preface to the Statute plainely sheweth that he understood it of Replevin by Sheriffs: for he saith, *Qui debent per plegios dimitti, qui non declarat hoc Statutum*; and *per plegios* is before the Sheriff. But for direct authority, it is the opinion of *Newton* Chiefe Justice 22. *Henry* 6. 46. where his words are these: It cannot be intended but the Sheriff did suffer him to go at large by mainprise: for where one is taken by the Writ of the King, at the commandment of the King, he is replevisable; but in such cases his friends may come to the Justices for him if he be arrested, and purchase a *Supersedeas*. This Judge concludes, that the Sheriffe cannot deliver him that is taken by the command of the King

King, for that he is irrepleviſable, which are the very words of the Statute: but ſaith he, his friends may come to the Juſtices, and purchaſe a *Superſedeas*. So he declares the very queſtion, that the Sheriff had no power, but that the Juſtices had power to deliver him who is committed by the Kings command, and both the ancient and modern practiſe manifeſts aſmuch. For he that is taken for the death of a man, or for the forreſt, is not repleviable by the Sheriffe; Yet they are ordinarily bayled by the Iuſtices, and were by the Kings Writs directed to the Sheriffs in the times of *Edward* 1. *&* *Edward* 2. as it appears in the cloſe Rolls, which could not be done if they were not baileable: and it is every daies experience that the Juſtices of the Kings Bench do baile for murder, and for offences done in the Forreſt; which they could not do, if the word *Irrepleviſable* in *Weſtminſter* 1. were meant of the Juſtices as well as the Sheriffs.

For the Authorities that have been offered to prove the contrary, they are in number three. The firſt is 21. *Edward* 1. *rot.* 2. in *Scrin.* which alſo is in the book of *Pleas* in the *Parliament* at the Tower *fol.* 44. It is not an act of *Parliament*, but a Reſolution in *Parliament*, upon an action there brought, which was uſuall in thoſe times. And the caſe is, that *Stephen Rabab* the Sheriff of the County of *Leiceſter*, and *Warwick* was queſtioned for that he had *Object.* 1.

had let at large, by Sureties, amongst others, one *William* the Sonne of *Walter le Persons*, against the will and command of the King, whereas the King had commanded him by letters under his Privy Seal, that he should do no favour to any man that was committed by the command of the Earle of *Warwick*, as that man was. Whereunto the Sheriff answered, that he did it at the request of some of the King's Houshold upon their Letters. And because the Sheriff did acknowledge the receipt of the King's Letters, thereupon he was committed to prison according to the form of the Statute.

To this I answer, that the Sheriffe was justly punished, for that he is expresly bound by the Statute of *VWest.* 1. which was agreed from the beginning. But this is no proofe that the Judges had not power to baile this man

Object. 2. The next Authority is 33. *Henry* 6. in the Court of *Common* Pleas, *fol.* 28. *b.* 29. where *Robert Poynings* Esq; was brought to the bar upon a *Capias*, and it was returned, that he was committed *per duos de Concilio* (which is strongest against what I maintain) *pro diversis causis Regem tangentibus*, And he made an Atturney there in an action: Whence is inferred, that the Return was good, and the party could not be delivered.

Resp. To this the answer is plain. First, no Opinion is delivered, in that book, one way

way or other upon the Return, neither is there any testimony whether he were delivered or bailed, or not.

Secondly, it appears expresly that he was brought thither to be charged in an action of debt at another mans suite, and no desire of his own to be delivered or bailed: and then, if he were remanded, it is no way materiall to the question in hand.

But that which is most relyed upon, is the Opinion of *Stamford* in his book of the Pleas of the Crown *Lib.* 2. *cap.* 18. *fol.* 72. 73. in his Chapter of *Mainprise*, where he reciteth the Chapter of *West.* 1. *cap.* 15. and then saith thus: By this Statute it appears, that in 4. Causes at the common law a man was not replevisable; to wit; those that were taken for the death of a man, by the command of the King, or of his Justices, or for the forrest. Thus far he is most right. Then he goeth on and saith: As to the command of the King; that is understood of the command by his own mouth; or his Councel, which is incorporated unto him and speake with his mouth; or otherwise every Writ of *Capias* to take a man (which is the King's command) would be as much. And as to the command of the Justices, their absolute commandment; for if it be their ordinary Commandment, he is replevisable by the Sheriff, if it be not in some of the cases prohibited by the Statute. *Object.* 3.

The

The answer that I give unto this is, that *Stamford* hath said nothing whether a man may be committed without cause by the Kings command, or whether the Judges might not baile him in such case; but only that such an one is not replevisable; which is agreed, for that belongs to the Sheriff: and because no man should think he meant any such thing, he concludes his whole sentence touching the command of the King and the Justices, that one committed by the Justice's ordinary command is replevisable by the Sheriff: So either he meant all by the Sheriff; or at least it appears not that he meant, that a man committed by the King or the Privy Councel, without cause, is not baileable by the Justices: and then he hath given no opinion in this case. What he would have said if he had been asked the question, cannot be known: Neither doth it appear by any thing he hath said, that he meant any such thing as would be inforced out of him.

And now, my Lords, I have performed the command of the house of Commons, and (as I conceive) shall leave their declaration of personal liberty an antient and undoubted truth, fortifyed with seven acts of Parliament, and not opposed by any Statute or authority of law whatsoever.

The

The Objections of the Kings Councell, with the Answers made thereunto at the two other conferences touching the same matter.

IT was agreed by Master Atturney General, that the seven Statutes urged by the Commons were in force, and that *Magna Charta* did extend most properly to the King. But he said, that some of them are in general words, and therefore conclude nothing, but are to be expounded by the Presidents, and others, that be more particular, are applyed to the suggestions of Subjects, and not to the Kings command simply of it self.

Hereunto is answered, that the Statutes were as direct as could be, which appeareth by the reading of them, and that though some of them speak of *suggestions* of the *Subjects*, yet others do not; & they that do are as effectual, for that they are in *qual* reason; a commitment by the command of the King being of as great force when it moveth by a suggestion from a Subject, as when the King taketh notice of the cause himself; the rather, for that Kings seldome intermeddle with matters of this nature, but by information from some of their People.

2. Master Atturney objected, that *per legem terræ* in *Magna Charta* (which is the foundation of this question) cannot be

understood for processe of the law and Original Writs: for that in all Criminal proceedings no Original Writ is used at all; but every Constable may arrest, either for felony, or for breach of the Peace, without processe or Original Writ: And it were hard the King should not have the power of a Constable: and the Statutes cited by the Commons make processe of the law, and Writ Originall to be all one.

The answer of the *Commons* to this *Objection* was, that they do not intend Original Writs onely by the Law of the land, but all other legal processe which comprehend the whol *proceedings* of law upon the cause; other then the tryall by *Jury*, *per judicium parium*, unto which it is *opposed*. Thus much is imposed *ex vi termini*, out of the word process and by the true acceptation thereof in the Statute have been urged by the Commons to maintain their declaration; and most especially in the Statutes of 25. *Edward* 3. *cap.* 4. where it appeareth, that a man ought to be brought in to answer by the course of the law, having made former mention of processe made by Original Writ. And in 28. *Edward* 3. *cap.* 3. by the course of the law, is rendred by due processe of the law. And 36. *Edward* 3. *Rot. Parl. nu.* 20. the Petition of the Commons saith, that no man ought to be imprisoned by special command without Indictment, or other due processe to be made by the Law. 37. *Edward* 3. *cap.* 18. calleth the same

Plowd 289. Cook 5. 111. 2.R.3. 18.21. E.3.29.19.H. 6 cap.4.

ſame thing proceſſe of the Law. And 42. *Edward* 3. *cap.* 3. ſtileth it by due proceſſe and Writ original; where the Conjunctive muſt be taken for a Disjunctive; which change is ordinary in expoſition of Statutes and Deeds to avoid Inconveniences, and to make it ſtand with the reſt and with Reaſon; and it may be Collected, that by the law of the land in *Magna Charta*; by the courſe of the law in 25. *Edward* 3. by due proceſſe of the law in 28. *Ed.* 3. other due proceſſe to be made by the Law 36. *Edward* 3. proceſſe of the Law 37. *Edward* 3. and by due proceſſe and Writ Original 42. *Edward* 3. are meant one and the ſame thing; the latter of theſe Statutes referring alwaies to the former; and that all of them import any due and regular proceeding of law upon a cauſe, other then a trial by Jury. And this appeareth *Cooke* 10. 74. in the caſe of the Marſhalſee; and *Cook* 11. 99. Sir *James Bagg's* caſe, where it is underſtood of giving juriſdiction by Charter or preſcription, which is the ground of a proceeding by courſe of Law; and in *Seldens* Notes on *Forteſcue fol.* 29. where it is expounded for Wager of law, which is likewiſe a TRYALL at Law by the Oath of the party, differing from that of Jury: and it doth truly comprehend theſe and all other regular proceedings in law upon cauſe, which gives authority to the Conſtable to arreſt upon cauſe; and if this ſhould not be the true

exposition of these words (*per legem terræ*) the King's Councel were desired to declare their meaning; which they never offered to do; And yet certainly, these words were not put into the Statute, without some intention of consequence.

And thereupon M. *Serjeant Ashley* offered an *interpretation* of them thus; namely, that there were divers lawes of this Realme; As the Common Law; the Law of the Chancery; the Ecclesiasticall Law; the Law of Admiralty or Marine Law; the Law of Merchants; the Martiall law; and the law of State: And that these words, (*per legem terræ*) do extend to all those Lawes.

To this it was answered, That we read of no law of State, and that none of those Lawes can be meant there, save the Common, which is the principall and generall Law, and is alwaies understood by way of *Excellency*, when *mention* is made of the *Law* of the land generally; & that though each of the other laws which are admitted into this Kingdome by Custome or Act of Parliament, may justly be called a law of the Land; yet none of them can have that preheminency to be stiled the law of the Land, and no Statute, Law-book, or other Authority, printed or unprinted, could be shewed to prove that the law of the Land, being generally mentioned, was ever intended of any other law then the Common law (and yet, even by these other

ther Lawes a man may not be committed without a cause expressed) but it standeth with the Rule of other legal expositions, that *per legem terræ* must be meant the Common Law, which is the generall and universal Law by which men hold their Inheritances, and therefore if a man speak of Escuage generally, it is understood (as *Littleton* observeth *plt. 99.*) of the incertain Escuage, which is a Knight's service tenure for the defence of the Realm by the body of the Tenant in time of Warr; and not of the certain Escuage which giveth only a contribution in money, and no personal service. And if a Statute speake of the King's Courts of Record, it is meant onely of the four at *Westminster* by way of Excellency: *Cook 6. 20. Gregories case.* So the *Canonists*, by the Excommunication if simply spoken, do intend the greater Excommunication; and the Emperor in his Institutions, saith, that the Civil law being spoken generally, is meant of the Civil Law of *Rome*, though the law of every City is a Civil law, as when a man names a Poet, the *Grecians* understand *Homer*, the *Latinists Virgil.*

Secondly, admit that *per legem terræ* extends to all the Lawes of the Land; yet a man must not be committed by any of them, but by the due proceedings that are exercised by those lawes, and upon cause declared.

Again it was urged, that the King is

not bound to expresse a cause of imprisonment; because there may be in it matter of State not fit to be revealed for a time, least the confederates thereupon make meanes to escape the hands of justice: and therefore the Statutes cannot be intended to restrain all Commitments, unlesse a cause be expressed; for that it would be very inconvenient and dangerous to the State to publish the cause at the very first.

Hereunto it was replyed by the Commons, That all danger and inconvenience may be avoided by declaring a generall cause; as, for Treason; for suspition of Treason, Misprision of Treason, or Felony, without specifying the particular; which can give no greater light to a confederate then will be conjectured by the very apprehension or upon the imprisonment, if nothing at all were expressed.

It was further alleaged, that there was a kind of contradiction in the Position of the Commons, when they say, that the party committed without a cause shewed, ought to be delivered or bailed; bailing being a kind of imprisonment, delivery a total freedome.

To this it was answered, that it hath alwaies been the discretion of the Iudges to give so much respect to a commitment by the Command of the King or the privie Councel, (which are ever intended to

be

be done on just & *weigty* causes) that they will not presently set him free, but baile him to answer what shall be objected against him on his Majesties behalfe: But if any other inferiour Officer commit a man without cause shewed, they doe instantly deliver him as having no cause to expect their pleasure; so the delivery is applyed to an imprisonment by the command of some mean Minister of justice; bailing when it is done by the command of the King or his Councel.

It was urged by Master Atturney, That bailing is a *grace* and *favour* of a Court of justice, and that they may refuse to do it. This was agreed to be true in divers cases, as where the cause appeareth to be for felony, or other crime expressed; for that there is another way to discharge them in convenient time, by their trial; (And yet in those cases the constant practise hath been, anciently and modernly to bayle men) but where no cause of the imprisonment is returned, but the command of the King, there is no way to deliver such persons, by trial or otherwise, but that of *Habeas Corpus*, and if they should be then remanded, they may be perpetually imprisoned, without any remedy at all, and consequently, a man that had committed no Offence might be in worse case then a great Offender; for, the latter should have an ordinary trial to discharge him, the other should never be delivered.

It was further said, that though the *Statute* of *West.* 1. *cap.* 15. as a *Statute*, by way of provision did extend only to the *Sheriff*; yet the Recital in that *Statute*, touching the 4. causes wherein a man was not replevisable at Common law (namely those that were committed for the death of a man; by the command of the King, or the Justices or for the Forrest) did declare that the Justices could not baile such an one, and that Replevisable and baileable were *Synonyma*, and all one. And that *Stamford* (a Judge of great authority) doth expound it accordingly, and that neither the *Statute* nor *He* say replevisable by the Sheriff, but generally without restraint, and that if the Chiefe Justice committed a man, he is not to be enlarged by another Court, as appeareth in the Register.

1. To this it was answered. First, that the Recitall and Body of the Statute relate only to the *Sheriff*, as appeareth by the very words.

2. That Replevisable is not restrained to the Sheriff, for that the word imports no more, that a man committed by the *Justice* is baileable by the Court of the King's Bench.

3. That *Stamford* meaneth all of the Sheriff, or at the least he hath not sufficiently expressed that he intended the *Justices*.

4. It was denyed that Replevisable and Baileable

Baileable are the ſame: For, they differ in reſpect of the place where they are uſed; Bail being in the King's Courts of *Record*, Repleviſable before the Sheriff. And they are of ſeveral Natures, Repleviſable being a letting at large upon Sureties; Bailing, when one *Traditur* in *ballium*, and the baile are his Jailors, and may impriſon him, and ſhall ſuffer body for body; which is not true of replevying by *Sureties*. And Bail differeth from Mainprize in this, that Mainprize is an undertaking in a ſumme certain; Bailing to anſwer the condemnation in civil cauſes, and in criminall body for body.

And the Reaſons and Authorities uſed in the firſt conference were then renewed, and no exception taken to any, ſave that in 22. *Henry* 6. it doth not appear that the Command of the King was by his mouth (which muſt be intended) or by his Councel (which is all one, as is obſerved by *Stamford*) for the words are, that a man is not repleviſable by the *Sheriff*, who is committed by the Writ or commandment of the King.

21. *Edward* 1. *Rot.* 2. *dorſo* was cited by the Kings Counſel. But it was anſwered, that it concerned the *Sheriff* of *Leiceſter*-ſhire only; and not the power of the Judges.

33. *Henry* 6. the King's Atturney confeſſed was nothing to the purpoſe; and yet that book hath been uſually cited by

thoſe

No. those that maintain the contrary to the declaration of the Commons; and therefore such sudden opinion as hath been given thereupon, is not to be regarded, the foundation failing.

And where it was said, that the *French* of 36. *Edward. Rot. Parl. n. 9.* (which can receive no answer) did not warrant what was inforced thence; but that these words (*Sans disturbance metter, ou arrest faire, & l'encontre per special mandement ou en autre manere*) must be understood, that the *Statutes* should be put in execution without disturbance or stay; and not that they should be put in execution without putting disturbance or making arrest to the contrary by special command, or in other manner. The Commons did utterly deny the interpretation given by the King's Councel; and to justifie their own, did appeale to all men that understood *French*, and upon the seven *Statutes* did conclude, that their Declaration remained an undoubted truth, not controuled by any thing said to the contrary.

The

The true Copies of the Records not printed which were used on either side in that part of the debate.

Inter Record. Domini Regis Caroli in Thesaurar. recept. Sccii. sui sub Custodia Domini Thesaurar. & Camer. ibidem remanen. videlicet Plat. coram ipso Domino Rege & Concilio suo ad Parliamentum suum post Pasc. apud London in Manerio Archiepiscopi Ebor. Anno Regni Domini Regis Edwardi 21. int. al. sic. continetur ut sequitur.

Rot. Secundo in Dorso.

STephanus Rabar. Vic. Leic. & Warr. coram ipso Domino Rege & ejus Concilio arrenatus & ad rationem positus de hoc quod cum *Joban. Bouteteurte*, *Edw. Del Hache*, & *W. Havelin* nuper in bal. ipsius Vic. per Dominum Regem fuissent assignat. ad *Gaoles* Domini Regis deliberand. idem Vic. quendam Wilhel. de Petling per quendam Appellatorem ante adventum eorum justic. ibidem appellatorem & Captum vivente ipso Appellatore usque diem deliberationis coram eis fact. dimisit per plevinam contra formam Statuti &c. Et etiam quendam Radum

Vic. Licestir.

Radum de Cokehal, qui de morte hominis judicatus fuit, & per eundum Vic. Captus, idem Vic. per plevinam dimisit contra formam Statuti, & etiam eundum Radum sine ferris coram eisdem Justic. ad deliberationem præd. produxit contra consuetudinem Regni. Et sci. quendam Wilh. filium Walteri la persone, qui per præceptum Com. Warr. Captus fuit, per plevinam contra præceptum Domini Regis, cum idem Dominus Rex per literas suas sub privat. sigillo suo eidem Vic. præcepit quod nulli per præcept. præd. Com. Warr. capt. aliquam gratiam faceret &c. Et super hoc præfat. *Johannes Botetourte*, qui præsens est, et qui fuit primus Justic. prædictorum præmissa recordatur. Et prædictus Vic. dicit quoad prædictum Wilh. de Petling, quod ipse nunquam a tempore Captionis ipsius Wilh. per præd. Appellat. dimissus fuit per plevinam aliquam ante adventum prædictorum Justic. Imo dicit quod per dimidium Annum ante adventum eorundem Justic. captus fuit & semper detent. in prisona absque plevina aliqua quousque coram eis damnat. fuit. Et quoad prædictum Radum bene cognoscit quod ipse dimisit eum per plevinam, & hoc bene facere potuit ratione & authoritat. Officii sui, eo quod capt. fuit pro quadam simplic. transgr. & non pro aliqua felon. pro qua replegiari non potuit. Et quoad tertium, videlicet Wilh. filium persone, bene cognoscit quod ipse Captus fuit

fuit per præcept.præd. Com. Warr.& quod dimiſit eum per plevinam; Sed dicit quod hoc fecit ad rogatum quorundam de hoſpitio & cur. Domini Regis &c. qui eum inde ſpecialiter rogaverunt per literas ſuas. Et ſuper hoc idem Vic. quæſit. per Dominum *Regem* quis eum rogavit & literas ſuas ei direxit,& ubi literæ illæ ſunt,dicit quod Walt.de Langton eum per literas ſuas inde rogavit; Sed dicit quod literæ illæ ſunt in partibus ſuis Leic. Et ſuper hoc idem Vic. profert quoddam brev. Domini Regis de privat. Sigillo eidem Vic. direct. quod teſtatur quod Dominus Rex ipſi Vic. præcepit quod omnes illos trangreſſores contra pacem & de quibus. Com.Warr.ei ſcire faceret, caperet & ſalvo cuſtodiret abſque aliqua gratia ei faciend. Et quia præd. Juſtic.expreſſe recordatur quod ipſe & ſocii ſui per bonam & legalem inquiſ. de Militibus.et al.liberis. hominib. eis fact.invenerunt quod prædictus Gulielmus de Petlinge dimiſſus fuit per plevinam per magnum tempus ante adventum eorund.Juſtic. uſque adventum eorund. & per Vic. præd. & etiam quia præd. Vic. cognoſcit quod prædictus Rad. dimiſſus fuit per plevinam per ipſum, un. & hoc dicit quod bene facere potuit eò quod captus fuit pro levi tranſgr. Et per Record. ejuſdem Juſtic. comp.eſt quod captus fuit pro morte hominis, quod eſt contrarium dec. prædicti vic.et ſcil.quia idem vic.cognovit quod recepit literam Domini Regis per quam Rex

ei

ei præcepit quod nullam *gratiam* faceret illis qui capti fuerunt per præceptum prædicti Com. Et idem Vic. contra præceptum illud dimisit prædictum Wilh. filium Walteri per plevinam, qui captus fuit per præceptum prædicti Com. prout idem Vic. *fatetur*. Et sic *tam* ratione istius transgr. quam aliarum prædictarum incurrit in pænam Statuti, cons. est quod prædictus Vic. Committatur prisonæ juxta formam Statuti &c.

Ex Rot Parliamenti de Anno Regni Regis Edwardi tertii Tricesimo quinto n. 9.

PRimerement que le grande Charter, & la Charter de la Forreste, & les autre Estatutes faits en son temps, & de ses progeniters pur profit de luy & de la come, soient bien & ferment gardes, & mis en due execution sans disturbance mettre ouarrest faire, & l'encontre per speciall mandement ou en autre manere. *Respons.*

Nostre Sr. le Roy per assent de Prelates, Domines, Comites, Barones & la Come ad ordeine & estabili que les dits Charters & Estatutes soient tenus & mis en execution selon la dit Petition.

Nu. 2.

Item come il soit contenuus en la grande Charter & autres Estatutes que nul homme soit pris nemy prisoner per especial mandement sans Enditement aut

aut eutre due proces affaire per la ley, & sonent foitz ad estre & uncore est, que plusurs gentz sont empeschez, pris & imprisone sans Enditement ou autre proces fait per la ley sur eux, si bien de chose fait hors de la Forrest le Roy come per autre cause que plese a nostre dit Sr. comander & deliver ceux que sont issint pris per tiel especiall mandement contre la forme des Charters & Estatutes avanditz. *Respons.*

Il plest au Roy, & si nul se sente greve vingne & face la pleinte, & droit luy sera fait.

33.

Parl. Anno. 4½. Edward 3. n. 12.

Item pur ceo que plusours de nostre Come son tamerce & disturbes per foulx accusers queux font lour accusements plus pur lour vengeances & singulers profits que pur le profit de Roy ou de son peuple, & les accuses per eux ascuns ont est pris & ascuns sonte faire ven' deut le Conceil le Roy per brief ou entre mandement de Roy sub grande paine encounter la ley, Plese a nostre Sr. le Roy & son Counceil pur droit gouvernement de son peuple ordeign que si desire ascun accusors purpose ascun matire pur profit du Roy que cele matire soit mander a ses Justices del'un Banke ou del'autre, ou d'Assises deut enquere & terminere selonque la ley, & si le touche lai onsour ou partie eit sa sent a la come ley, & que null home soit mis a respondre sans presentment deut Justices, ou chose de Record, ou per due proces & briefe original, selon l'ancient ley de la terre, & si rien desire enovant soit fait a l'encontre, soit voide en ley, & tenu pur Erreur. *Respons.* *Pur*

Pur ceo que ceste Article est Article de la grande Charter le Roy voet que ceo soit fait come la Petition demande.

Ex Rot. Claus. Anno Regis Edwardi primi primo m. 1.

De ponend. per Ballium.

Thomas de Clirowe de Blechweth captus & detentus in prisona North. pro transgr. Forrest. habet literas Rogero de Clifford Justic. Forrest. citra Trentam quod ponatur per ballium, dat. apud S. Martium Magnum. London 20. die Octobris.

M. 7.

Stephanus de Lindely captus & detent. in prisona Regis pro transf. per ipsum fact. in ha. Regis de Lyndeby habet literas. Regis Galfrido de Nevill Justic. ultra Trent. quod ponatur per Ballium.

M. 9.

Thomas Spademan captus & detent. in prisona Oxon. pro morte Wilh. Win. unde rectat. est et habet literas Regis Vic. Oxon. quod ponatur per ballium. ibidem.

Gulielmus de Dene, Matthæus Cruft, Roger. de Bedell, Gulielmus Halfrench, Robertus Wyant, Alex. Horeux, Henric. de Shorne, Nicholaus de Snodilond, Turgisius de Hertfield, Robertus de Pole, & Richardus Galiot capti & detent. in prisona

ſona de Cantuar. pro morte Galfridi de Catiller unde appellat. ſunt, habent literas Regis Vic. Kanc. quod ponantur per ballium. Dat. &c. 23. die Martii.

Clauſ. Anno ſecundo Edwardi primi M. 12.

Rex Rogero de Cliffi Juſtic. Forreſt citra Trent. Mandamus vobis quod ſi Robertus Unwyne captus & detent. in priſona noſtra de Aylesburie pro tranſgr. Forreſtæ noſtræ, invenerit vobis *duodecim* probos & legales homines *de balliva* veſtra qui manucapiant eum habere coram Juſtic. *noſtri* ad plac. Forreſt. cum in parte &c ad ſtand. inde rect. tunc apud Robertum ſi ſecund. aſſiam. Forreſte fuerit repleg. prædictis 12. interim tradit. in ballium ſicut predictum eſt. Et habeatis nomina illorum 12. hominum & hoc bre. Dat. 27. die Februarii.

Clauſo Anno ſecundo Edwardi primi.
M. 14.

Umvynus de Boycot, Gaf. de Wykenn & *Hugh de Stowe* detent. in priſona Regis de Aylesburie pro tranſgreſſione Venationis habeur. bre. direct. Regis de Clifford Juſtic. Forreſt quod ſecundum aſſiam Forreſt fuerint repleg. ponantur per ballium uſque adventum Juſtic. Regis ad plac. Forreſte cum in partes illas venerit. Dat. apud Codington 28. die Decembris. Deponend. per ballium.

*M.*15.

Gilbertus Conrey de Kedington, & *Hugh le Tailour* de Kedington capti & detent. in prisona de secundo Edwardo pro morte Edwardi Butring, unde rectati sunt, habuerunt literas Regis Vic. Suff. quod ponantur per ballium.

Clauso Anno 3. *Edwardi primi.*

M. 11.

Galfr. de Hayerton captus & detent. in prisona Regis *Ebor.* pro *morte Ade le Clerc, unde rectatus est*, habet literas *Regis Vic. Ebor. quod ponatur per ballium. Dat. apud W.* 13. *die Junii.*

*M.*20.

Robertus Belharbe capt. & detent. in prisona Regis de Newgate pro morte Thomæ Pollard, unde rectat. est, habet literas Regis Vic. Midd. quod ponatur per ballium. Dat. 28. die Februarii.

Clauso Anno quarto Edwardi primi.

M. 5.

Mand. est *Rad.* de *Sandwico* quod si *Gulielmus* de *Pattare* & *Johannes* filius ejus, *Walterus Home*, Walt. *Jorven*, *Henricus Pothe* et *Gulielmus Cadegan* capti & detent. in prisona Regis de secundo *Brianello* pro trans. Forrest unde rectati sunt, invenerunt sibi duodecim probos & legales homines de balliva sua, viz. quilibet eorum duodecim qui eos manucap. habere coram Justic. Regis ad plac. Forrest. cum in

in partes ill. venerent, ad ſtand. inde recto, tunc ipſos Willhelmum, Iohannem, Walterum, Walterum, Henricum & Wilh. præd. duodecim ſcil. ſecundum aſſiam Forreſte fuerint repleg. tradat in ballium ut prædictum eſt, Et habeat ibi nomina illorum duodecim hominum, & hoc bre. T. Rege apud Bellum locum Regis 29. die Auguſti.

Clauſo Anno quarto Edwardi primi.

M. 16.

Henricus filius *Rogeri de Ken* de Cotteſbrook captus et detent. in priſona noſtra North. pro morte Simonis le Charetter unde appellatus eſt, habet literas Regis Vic. North. quod ponit. per ballium. Deponend. Par. ballium.

Clauſo Anno quinto Edwardi primi.

M. 1.

Mand. eſt Galfrido de Nevil Iuſtic. Forreſte ultra Trent. quod ſi Walter. de la Greue captus et detent. in priſona de Nott. pro ranſ. Forreſte invenerit ſibi duodecim probos et legales homines qui eum manucapiant &c. ad ſtand. inde rect. ſecundum aſſiam Forreſte Regis, tunc ipſum Walterum prædictis duodecim tradat in ballium ſicut prædictum eſt. Dat. decimo ſexto die Novembris.

M. 2.

Thomas de Upwell et Iul. uxor ejus capt. et detent. in priſona de Wynbole

pro morte Stephani Southell unde rectati sunt habuer. liter. Vic. Norff. quod ponantur per ballium. Dat. apud Rocheland 28. die Septembris.

Clauso Anno sexto Edwardi primi.
M.

Bilherus Pesse captus et detent. in prisona Regis de Norwich pro morte Jul. quond. uxoris suæ unde rectatus est, habet literas Vic. Norff. quod ponatur per ballium, T. Rege apud Westmonast. 12. Novembris.

M. 4.

Mandat. est Vic. Nott. scilicet quod si Thomas de Cadurte rectatus de transg. Forrest quam fecisse dicebatur in Forresto de Shirwood, invenerit sibi sex probos et legales homines de balliva sua qui eum manucap. habere coram Rege ad mand. Reg. ad stand. rect. coram *R.* cum *R.* inde vers. eum loqui voluerit, tunc præd. Tho. præd. sex hominib. tradat in ballium juxta manucaptionem supradictam. Dat. decimo quinto die Decembris.

M. 4.

Thom. Burell Capt. et detent. in prisona Regis Exon. pro morte Galf. Giffarde unde rectat. est. habet litteras Vic. Devon. quod ponatur per ballium. *Clauso*

Clauſo Anno 3. Edwardi ſecundi.
M. 13.

Adam le Piper Capt. & detent. in Gaole Regis Ebor. pro morte Henr. le Simer de Eſcricke unde rect. eſt, habet literas Regis Vic. Ebor. quod ponatur per ballium uſque ad prim. aſſiam. T. Rege apud Weſtm. ſeptimo die Febr.

Adam de
nend. in b

M. 14.

Margareta uxor Wilh. Calbot capta & detent. in Gaole Regis Norwic. pro morte Agnetis filiæ Wilh. Calbot. & Martil. ſoror. ejuſdem Agnet. unde rectata eſt, habet literas Regis Vic. Norff. quod ponatur per ballium. T. Rege apud Shene 22. die Jan.

M. 18.

Johannes Frere Capt. & detent. in Gaole Regis Exon. pro morte Ade de Egelegh unde rectat. eſt, habet. literas Regis Vic. Devon quod ponatur per ballium. T. Rege apud Weſtm. 8. die December.

Clauſo Anno quarto Edwardi Secundi.
M. 7.

Robertus Shereve capt. & detent. in Gaole Regis de Colceſtr. pro morte Roberti le Moigne unde indictat. eſt, habet lite-

ras Regis Vic. Essex quod ponatur in ballium usque ad pri. assiam. Dat. 22. die Maii.

M. 8.

Wilh. filius Rogeri le Fishere de Shurborne capt. & detent. in Gaole Regis Ebor. pro morte Roberti le Monnour de Norton unde rectatus est, habet literas Regis Vic. Ebor. quod ponatur per ballium usque ad pri. Assiam. Dat. 25. Die April.

Clauso Anno quarto Edwardi secundi.

M. 22.

Thom. Ellys de Stamford capt. & detent. in prisona Regis Lincoln. pro morte Michael. filii Wilh. de Foderingey unde rectatus est, habet literas Regis Vic. Linc. quod ponatur in ballium usque ad pri. Assiam. T. Rege apud novam West. octavo die Septembris.

Patent. Anno octavo Edwardi pars prima membr. 14.

Pro Georgio de Rupe.

Rex omnib. ad quos &c. Salutem. Sciatis quod cum Georgius De Rupe de Hiber. defunctus pro eo quod ad Parliamenta apud Dublin in Hibern. Ann. Regni Domini Edwardi nuper Regis Angl. præc. nostri vicesimo, & Anno Regni nostri secundo

do tenta, non venit prout ſummonitus fuit, ad ducentas marcas amerciatus fuiſſet ut accepimus, Ac Johannes filius prædicti Georgii nobis ſupplicaverit ut habito reſpectu ad hoc quod prædictus pater ſuus ſe a Parliamentis prædictis cauſa inobedientiæ non abſentavit, per quod ita exceſſive amerciari deberet, Velimus concedere, quod amerciamenta illa quæ ob ipſo Johanne ad opus noſtrum per ſummonitionem Sccii noſtri Dublin jam exigunt. juſte moderentur. Nos volentes cum eodem Johanne gratioſe agere in hac parte, Volumus & concedimus quod decem libræ tantum de prædictis ducentis marcis ad opus noſtrum ex cauſis præmiſſis leventur, Et præfatum Johannem de toto reſiduo earundem ducentar. marcarum tenore præſentium quietamus. In Cujus &c. T. Rege apud Novum Caſtrum ſuper Tynam.

Per Petitionem de Concilio apud Novum Caſtrum ſuper Tynam.

Et mandat. eſt Thomæ & Camerar. de Sccio. Dublin quod prædictas decem libras de prædictis ducentis marcis de præfato Johanne ad opus Regis levent, & ipſum Johannem de toto reſiduo inde ad dict. Sccam. exonerari & quietum eſſe fa&t. T. ut ſupra.

Per eandem Petitionem

Patent. vicesimo septimo Edwardi tertii pars prima membr. 13.

Pro Jacobo de Audele de non veniendo ad Parliamenta.

Rex omnibus ad quos &c. Salut. Sciatis quod de gra. nostra speciali Concessimus pro nobis & hered. nostris dilecto. & fideli nostro Jacobo Daudle de Helegh quod ipse ad totam vitam quietus sit de veniendo ad Parliamenta & Concilia nostra & hered. nostrorum ac etiam ad congregationes Magnatum & procerum ad mandata nostra vel heredum nostrorum ubicunque faciend. Ita quod idem Jacobus, quoad vixerit ratione non adventus sui ad Parliamenta, Concilia, seu Congregationes hujusmodi, seu Personalis Comparationis in eisdem per nos vel heredes nostros aut ministros nostros quoscunque non impetatur, occasionetur aliqualit. seu gravetur. Concessimus insuper pro nobis et hered. nostris præfato Jacobo quod ipse toto tempore vitæ suæ ad laborand. de guerra in servitiis nostris vel hered. nostrorum seu ad homines ad arma, hobelarios, vel sagittarios in hujusmodi servitiis ex nunc inveniend. extra Regnum nostrum Angl. nisi cum Regale servitium nostrum aut heredum nostrorum summonitum fuerit, contra voluntatem suam nullatenus Compellatur, nec ea de causa aliqualiter impetatur, Ita semper quod idem Jacobus cum hominibus ad arma et aliis armatis pro defensione Regni nostri Angl. infra idem Regnum quoties aggressus inimicorum

corum nostrorum aut aliud periculum vel necessitas seidem Regno immineant una cum aliis fidelibus nostris ipsius Regni proficiscat. et homines ad arma, hobelar. et sagittar. juxta statum suum sicut Cæteri de eodem Regno ea de causa invenire teneatur. In Cujus rei &c. T. Rege apud West. 20. die April.

per ipsum Regem.

Patent. 42. *Edwardi.* 3. *part. secunda mem.* 13.

Rex omnibus Ball. et fidelibus suis ad quos *&c.* Salutem. Sciatis quod de gra. nostra *speciali* concessimus pro nobis et hered. nostris dilecto et fideli nostro Roberto de Insula mil. fil. et heredi Johannis de Insula, quod idem Robertus ad totam vitam suam hanc habeat libertatem, videlicet, quod ad Parliamenta seu Concilia nostra vel hered. nostrorum ex quacunque causa venire minime teneatur. Et quod ipse in aliqua Jurata, attincta aut magna Assisa nos vel heredes nostros tangent. aut aliis Juratis, attinctis aut assizis quibuscunque non ponatur *&c.* Et idio Vobis mandamus quod prædictum Robertum contra hanc concessionem nostram non molestetisin aliquo seu gravetis. In Cujus *&c.* T. Rege apud West. 24. die Novembr.

Pro Roberto de Insula milite de non-veniendo ad Parliament.

per breve de privato Sigillo.

Pat.

Pat. 34. Henric. sext. membr. 23.

Pro Rich. Duce Ebor. de tenend. Parliamentum nomine Regis.

Rex omnibus ad quos &c. Salut. Sciatis quod cum pro quibusdam arduis et urgentibus negotiis nos statum et defensionem Regni nostri Angl. ac Ecclesiæ Anglicanæ contingentibus, quoddam Parliamentum nostrum nuper apud Palatium nostrum West. teneri, et usque ad duodecim. diem hujus instantis mensis Novembr. ad idem Palatium nostrum adjornari et prorogari ordinaverimus, quia vero dicto Parliamento nostro propter certas justas et rationabiles causas in persona nostra non potuerimus interesse, Nos de circumspectione et industria Carissimi Consanguinei nostri Rich. Ducis Ebora. plenam fiduciam reportantes, eidem Consanguineo nostro ad Parliamentum prædictum nomine nostro tenend. et in eod. procedend. et ad faciend. omnia et singula quæ pro nobis et per nos pro bono regimine et gubernatione Regni nostri prædicti ac aliorum Dominorum nostrorum eidem Regno nostro pertinen. ibidem fuerint faciend. nec non ad Parliamentum illud finiend. et dissolvend. de assensu Concilii nostri plenam tenore præsentium Commisimus potestatem. Dantes ulterius de assensu ejusdam Concilii nostri tam universis et singulis Archiepiscopis, Episcopis, Abbatibus, Prioribus, Ducibus, Comitibus, Vicecomitibus, Baronibus & Militibus cum omnibus aliis quorum interest ad Parliamen-

mentum noſtrum prædictum conventur. ſcilic. tenore præſentium firmiter in mandatis quod eidem Conſanguineo noſtro intendant in præmiſſis in forma prædicta. In Cujus &c. T. Rege. apud Weſt. 11. die Novembr. Per breve de privato Sigillo & de dat. prædict. &c.

Pat. 24. Henric. 6. memb. 19. pars prima.

Rex omnibus Balliis & fidelibus ſuis ad quos &c. Salut. Sciatis quod *cum* ubi Wilh. Lovell miles ad Parliamenta & Concilia noſtra ad mandatum noſtrum, venire teneatur, hinc eſt quod idem Wilhelmus, ob diverſ. infirmitat. quibus detinetur, abſque maximo corporis ſui periculo ad Parliamenta & Concilia prædicta laborare non ſufficit, ut informamur. Nos præmiſſa, ac bona et gratuita ſervitia quæ idem Wilh. tam patri noſtro defuncto quam nobis in partibus tranſmarinis impendit, & nobis in Regno noſtro Angl. impendere deſiderat Conſiderantes, de gra. noſtra ſpeciali Conceſſimus eidem Wilh. quod ipſe durante vita ſua per nos vel hered. noſtros ad veniend. ad Parliamenta ſeu Concilia noſtra quæcunque tent. ſive in poſterum tenend. contra voluntatem ſuam non arctetur nec Compellatur quovis modo, Sed quod ipſe ab hujuſmodi Parliamentis & Conciliis in futur. ſe abſentare poſſit licite & impune, aliquo Statuto, Actu, Ordinatione ſive Mandato inde in Conrrarium fact

De non veniend. ad Parlia. Lovel.

fact.odinat. sive provis. non obstant. Et ulterius volumus, & eidem Wilhelmo per præs. Concedimus quod absentatio hujusmodi non cedat ei in damnum seu prejudicium quoquo modo, Sed quod præs. Carta nostra de exemptione, per præfatum Wilh. seu alium quemcunque nomine suo in quibuscunque locis infra Regnum nostrum Angl. demonstrat. super demonstratione illa eidem Wilh. valeat & allocetur. Proviso semper quod idem Wilh. ad voluntatem suam, & heredes sui loca sua in Parliamentis & Conciliis prædictis habeant & teneant, prout idem Wilh. & antecessores sui in hujusmodi Parliamentis & Conciliis ab antiquo habuerunt & tenuerunt, Concessione nostra prædicta non obstante. In Cujus &c. T. Rege apud West. quarto die Febr.

Per breve de privato sigillo & de data prædicta authoritate Parliamenti.

Clauso Anno 27. Henric. 6. m. 24. dorso.

Summonit. Parliamenti.

Rex dilecto & fidel. suo Hen. Bromflete Militi Baroni de Vescy Salutem. Quia &c. Volumus enim vos & heredes vestros masculos de Corpore vestro legitime exeuntes Barones de Vessey existere. T. Rege apud West. 24. die Januar.

Pat. 34. Henric. sext. membr. 13.

Rex concessit Hen. Bromflete militi domino

mino Vessey qui senio & tantis infirmitatibus *detentus* existit, *quod absque* maximo Corporis sui periculo labor. non sufficit, quod ipse durante vita sua ad personalit. veniend. ad person. Regis, per aliquod breve sub *magno* vel privato sigillo, aut per literam *sub* sigillo Signeti Regis, vel per aliquod *aliud mandatum* Regis vel hered. *suorum* seu ad *aliquod Concilium*, sive *Parliamentum* Regis vel hered. *suorum* ex *nunc* tenend. *nullatenus arctatur neque compellatur* contra *voluntat. suam* &c. T. Rege *apud* West. 13. die *Maii.*

Pro Henrico Dom. Vessey de exemptione.

Per *ipsum* Regem & de dat: prædicta *auctoritate Parliamenti.*

A

A

SPEECH

Delivered in the Lower House of

PARLIAMENT

Assembled at

OXFORD:

In the first year of the Reign of KING

CHARLES,

By Sir ROB. COTTON Knight and Baronet.

LONDON,

Pinted in the year 1651.

A

SPEECH

Delivered in the Lower House of

PARLIAMENT

Assembled at

OXFORD:

In the first year of the Reign of King

CHARLES.

Mr. SPEAKER,

ALthough the constant Wisdome of this House of Commons did well and worthily appear in censuring that ill advised member the last day, for trenching so farr into their antient Liberties, and might encourage each worthy servant of the publique here to offer freely up his councel and opinion: Yet since these Walls cannot conceal from the eares of captious, guilty and revengeful men without, the Councel and debates within;

I will endeavour, as my cleer mind is free from any personal distaste of any one, so to expresse the honest thoughts of my heart, and discharge the best care of my trust, as no person shall justly taxe my innocent and publique mind, except his conscience shall make him guilty of such crimes as worthily have in Parliament impeached others in elder times. I will therefore, with asmuch brevity as I can, set
1. down how those disorders have by degrees
2. sprung up in our own memories; how the Wisdome of the best and wisest *Ager* did
3. of old redresse the like. And lastly, what modest and dutiful course I would wish to be followed by our selves in this so happy Spring of our hopeful Master. For (Mr. Speaker) we are not to judge, but to present: The redresse is above *ad Querimoniam Vulgi.*

Now (Mr. Speaker) so long as those attended about our late Soveraign Master, now with God, as had served the late Queen of happy memory, debts of the Crown were not so great; Commissions and Grants not so often complained of in Parliaments; Trade flourished; Pensions not so many though more then in the late Queens time: for they exceeded not 18000. l. now neer 120000. l. All things of moment were carryed by publick debate at the Councel-Table; No honour set to sale: nor places of Judicature. Lawes against Priests and Recusants

sants were executed: Resort of *Papists* to Ambassadors houses barred and punished; His Majestie by daily direction to all his Ministers, and by his own pen declaring his dislike of that Profession: No wastful expences in fruitlesse Ambassages, nor any transcendent power in any one Minister. For matters of State, the Council-Table held up the fit and antient dignitie. So long as my Lord of Somerset stood in state of grace, and had by his Majesty's favour the trust of the Signet Seale; he oft would glory justly, there passed neither to himself, or his friends any long grants of his highnesse lands or Pensions: For that which himself had, he paid 20000.l. towards the Marriage-Portion of the King's Daughter. His care was to passe no Monopoly or illegal Grant, and that some Members of this house can witnesse by his charge unto them. No giving way to the sale of Honours, as a breach upon the Nobility (for such were his *own* words) refusing Sir *John Roper's* Office, then tendred to procure him to be made a Baron. The match with *Spain*, then offered (and with condition to require no further toleration in Religion then Ambassadours here are allowed) discovering the double dealing and the dangers, he disswaded his Majesty from; and left him so farr in distrust of the faith of that King, and his great instrument, *Gondomar*, then here residing; that his Majestie did term him long time

after a *Jugling Jack*. Thus stood th'effect of his power with his Majesty when the cloudes of his misfortune fell upon him. What the future advices led in, we may well remember. The marriage with *Spain* was againe renewed: *Gondomar* declared an honest man: Popeie heartened, by admission of those unsure, before conditions of Conveniencie. The forces of his Majestie in the Palatinate withdrawn, upon *Spanish* faith improved here and believed; by which his Highnesse Children have lost their Patrimony, and more money been spent, in fruitlesse Ambassages; then would have maintained an Army fit to have recovered that Countrey. Our old and fast Allies disheartened, by that tedious and dangerous Treaty: And the King our now Master, exposed to so great a perill, as no wise and Faithful Councell would ever have advised. Errors in Government more in misfortuue by weak Councels then in Princes.

The losse of the Countie of *Poyntiffe* in *France*, was laid to Bishop *Wickham*'s charge in the first of *Richard* 2. for perswading the King to forbear sending aide when it was required: a Capital crime in Parliament. The losse of the *Duchie* of *Maine* was laid to *De la Poole* Duke of *Suffolke* 28. *Henry* 6. in single and unwisely treating of a Marriage in *France*.

A *Spanish Treaty* lost the Palatinate. Whose Councell hath procured so great

power

power to the *Spanish* Agent (as never before) to effect freedome to so many Priests as have been of late, and to become a Sollicitor almost in every Tribunall for the ill affected Subjects of the State, is worth the enquiry.

What grants of Impositions before crossed, have lately been complained of in Parliaments? As that of *Ale-houses*, *Gold Thred*, *Pretermitted Customes*, and many more; the least of which would have 50. *Edward* 3. adjudged in Parliament an heynous crime, aswell as those of *Lyons* and *Latymer*.

The Duke of *Suffolk* in *Henry* 6. time, in procuring such another Grant in derogation of the Common Law, was adjudged in Parliament.

The gift of Honours, kept as the most sacred treasure of the State, now set to saile. Parliaments have been suitors to the King to bestow those graces; as in the times of *Edward* 3. *Henry* 4. and *Henry* 6. More now led in by that way onely then all the merits of the best deservers have got these last 500. years. So tender was the care of elder times that it is an Article 28. *Henry* 6. in Parliament against the Duke of *Suffolke*, that he had procured for himself, and some few others, such Titles of Honour; and those so irregular, that he was the first that ever was Earle, Marquesse, and Duke of the self same place. *Edward* the first restrained the number, in pollicie,

that would have challenged a Writ by Tenure; and how this proportion may suite with profit of the State we cannot tell. Great deserts have now no other recompence then costly Rewards from the King; For, we now are at a vile Price of that which was once inestimable. If worthy persons have been advanced freely to places of greatest trust, I shall be glad, *Spencer* was condemned in the 15. of *Edward* 3. for displacing good servants about the King, and putting in his Friends and followers, not leaving, either in the *Church* or Common-Wealth, a place to any, before a fine was paid unto him for his dependance. The like in part was laid by Parliament on *De la Poole*. It cannot but be a sad hearing unto us all, what my Lord Treasurer the last day told us of his *Majesties* great debts, high Engagements, and present wants: The noise whereof I wish may ever rest inclosed within these Walls. For, what an incouragement it may be to our enemies, and a disheartning to our friends I cannot tell. The danger of those if any they have been the cause is great and fearful. It was no small motive to the Parliamant, in the time of *Henry* 3. to banish the King's half-Brethren for procuring to themselves so large proportion of the Crown lands. *Gaveston* and *Spencer* for doing the like for themselves, and their followers in *Edward* the 2. time, and the Lady *Vessy* for procuring the like for her

her Brother *Beaumont*, was banished the Court. *Michael de la Poole* was condemned the 20. of *Richard* 2. in Parliament, amongst other crimes, for procuring lands and Pensions from the King, and having imployed the subsidies to other ends then the grant intended. His Grand-Child, *William Duke* of *Suffolke*, for the like was censured 28. *Henry* 6. The great Bishop of *Winchester*, 50. *Edward* 3. was put upon the King's mercy by Parliament for wasting in time of peace, the Revenues of the Crowne, and gifts of the People, to the yearly oppression of the Common-Wealth. Offences of this Nature were urged to the ruining of the Last Duke of *Somerset*, in *Edward* 6. time. More fearful Examples may be found, too frequent in Records. Such Improvidence and ill Councell led *Henry* the third into so great a strait, as after he had pawned some patt of his Forreigne Territories, broke up his house, and sought his diet at Abbies and Religious houses, ingaged not onely his own Jewells, but those of the Shrine of Saint *Edward* at *Westminster*, he was in the end (not content, but) constrained to lay to pawne (as some of his Successors after did) *Magnam Coronam Angliæ*, the Crown of *England*. To draw you out to life the *Image* of former Kings extremities, I will tell you what I found since this Assembly at *Oxford*, written by a Reverend man twice *Vice-Chancelour* of this place: his

name was *Gascoigne*; a man that saw the Tragedie of *De la Poole*: He tells you that the Revenues of the Crown were so Rent away by ill Councell, that the King was inforced to live *de Tallagiis Populi*: That the King was grown in debt *quinque centena millia librarum*: That his great Favourite, in treating of a Forreigne Marriage, had lost his Master a Forreigne Duchie: That to work his ends, he had caused the King to adjourne the Parliament *in Villis & remotis partibus Regni*, where few people, *propter defectum hospitii & victualium* could attend, and by shifting that assembly from place to place to informe (I will use the Authors words) *illos paucos qui remanebunt de Communitate Regni, concedere Regi quamvis pessima*. When the Parliament endeavoured by an act of Resumption, the just and frequent way to repaire the languishing State of the Crown (for all from *Henry* 3. but one till the 6. of *Henry* 8. have used it) this great man told the King it was *ad dedecus Regis*, and forced him from it: To which the Commons answered, although *vexati laboribus & expensis; Quod nunquam concederent taxam Regi*, untill by authoritie of Parliament, *resumeret actualiter omnia pertinentia Coronæ Angliæ*; And that it was *magis ad dedicus Regis*, to leave so many poor men in intollerable Wanti, to whom the King stood then indebted; Yet nought could all good Councel work, untill by Parliament that bad great man

was

was banished: which was no sooner done; but an act of Resumption followed the inrollment of the Act of his Exilement. That was a speeding Article against the Bishop of *Winchester* and his Brother, in the time of *Edward* 3. that they had ingrossed the person of the King from his other Lords. It was not forgotten against *Gaveston* and the *Spencers* in *Edward* 2.time. The unhappy Ministers of *Richard* 2. *Henry* 6. and *Edward* 6. felt the weight to their Ruine of the like errors. I hope we shall not complaine in Parliament again of such.

I am glad we have neither just cause or undutiful dispositions to appoint the *King* a *Councel* to redres those *errors* in *Parliament*, as those of the 42.*H*.3. We do not desire, as 5.*H*.4.or 29.*H*.6. the removing *from* about the King of *evil Councellors*.*We* do *not request* a *choise* by *name*, as 14.E.3.3.5.11.*R*.2.8.*H*.4.or 31.*H*.6.nor to *swear them* in *Parliament*, as 35.*E*.1.9.*E*.2.or 5.*R*.2. or to line them out their *directions of rule*, as 43.*H*.3. and 8.*H*.6.or desire that which *H*.3.did promise in his 42. year, *se acta omnia per assensũ Magnatum de Concilio suo electorum, & sine eor. assensu nihil*. *We* only in *loyal* duty offer up our *humble destres*, that since his *Majesty* hath with *advised Judgement elected* so *wise*, *Religious*, and *worthy Servants* to attend him in that *high imployment*, he wilbe pleased to advise with *them together*, a *way* of *Remedy* for those *disasters* in *State*, led in by *long security* and *happy peace*, & *not with young and single Councel*.

A

SPEECH

made by Sir

ROB. COTTON

Knight and Baronet, informed Lords and Gentlemen, in a most Honorable

PRIVY COUNCEL,

At the Council Table: be-
ing then called to deliver his
Opinion touching,

the

ALTERATION

of

COYNE.

Sapit, dum que Regni
Regis Curiæ.

LONDON,
Printed in the year 1626.

A SPEECH *Touching the* ALTERATION *OF* COYNE.

My LORDS,

Ince it hath pleased this Honourable Table to command, amongst others, my poor Opinion concerning this weighty Proposition of money, I most humbly crave pardon; if with that freedome that becomes my dutie to my good and gratious Master, and my obedience to your great command, I deliver it so up.

I cannot (my good Lords) but assuredly conceive, that this Intended Project of enhauncing the Coyne, will trench both into the Honour, the Justice, and the Profit

Honour, Justice & Profit.

fit of my Royall Master very farre.

Honour. All Estates do stand *Magis Famâ quam Vi*, as *Tacitus* saith of *Rome*: and Wealth in every Kingdome is one of the Essentiall marks of their Greatnesse: and that is best expressed in the Measure and Puritie of their Moneies. Hence was it, that so long as the *Romane Empire* (a Pattern of best Government) held up their Glory and Greatnesse, they ever maintained, with little or no charge, the Standard of their coine. But after the loose times of *Commodus* had led in Need by Excesse, and so that shift of Changing the Standard, the Majesty of that Empire fell by degrees. And as *Vopiscus* saith, the steps by which that State descended were visibly known most by the gradual alteration of their Coine. And there is no surer symptome of a Consumption in State then the corruption in money.

Edw. I. What renown is left to the Posterity of *Edward* the first in amending the Standard, both in purity and weight from that of elder and more barbarous times, must stick as a blemish upon Princes that do the contrary. Thus we see it was with *Henry*

Hen. 6. the sixt; who, after he had begun with abating the measure, he after fell to abating the matter; and granted commissions to *Missenden* and others to practise *Alchemy* to serve his Mint. The extremity of the State in generall felt this aggrievance, besides the dishonour it laid upon the

the perſon of the King, was not the leaſt advantage his diſloyal Kinſman took to ingrace himſelf into the People's favour, to his Soveraigne's ruin.

When *Henry* the 8. had gained aſmuch of power and glory abroad, of Love and Obedience at home, as ever any; he ſuffered ſhipwrack of all upon this Rock. Hen. 8.

When his Daughter Queen *Elizabeth* came to the Crown, ſhe was happy in Councel to amend that Error of her Father: For, in a Memorial of the Lord Treaſurer *Burleigh's* hand, I find that he and Sir *Thomas Smith* (a grave and learned man) adviſing the Queen that it was the honour of her Crown, and the true wealth of her Self and People, to reduce the Standard to the antient parity and purity of her great Grand-Father King *Edward* 4. And that it was not the ſhort ends of Wit, nor ſtarting holes of deviſes that can ſuſtain the expence of a Monarchy, but ſound and ſolid courſes: for ſo are the words. She followed their adviſe, and began to reduce the Monies to their elder goodneſs, ſtiling that work in her firſt Proclamation *Anno* 3. *A Famous Act.* The next year following, having perfected it as it after ſtood; ſhe tells her People by another *Edict*, that ſhe had conquered now that *Monſter* that had ſo long devoured them, meaning the Variation of the Standard: And ſo long as that ſad Adviſer lived, ſhe never (though often by Projectors importuned) could be drawn

Queen Eliz.

Edw. 4.

drawn to any ſhift or change in the Rate of her monies.

To avoid the trick of Permutation, *Coyn* was deviſed, as a Rate and meaſure of Merchandize and Manufactures; which if mutable, no man can tell either what he hath or what he oweth, no contract can be certain; and ſo all commerce; both publique and private, deſtroied; and men again enforced to permutation with things not ſubject to wit or fraud.

Juſtice.

The regulating of Coin hath been left to the care of Princes, who are preſumed to be ever the Fathers of the Common-Wealth. Upon their honours they are Debtors and Warranties of Juſtice to the Subject in that behalfe. They cannot, ſaith *Bodin*, alter the price of the monies, to the prejudice of the Subjects without incurring the reproach of *Faux Monnoyeurs*. And therefore the Stories terme *Philip le Bell*, for uſing it, *Falſificateur de Moneta. Omnino Monetæ integritas debet quæri ubi vultus noſter imprimitur*, ſaith *Theodoret the Gothe* to his *Mint-Maſter*, *Quidnam erit tutum ſi in noſtra peccetur Effigie?* Princes muſt not ſuffer their faces to warrant falſhood.

Bodin.

Theodoret the Gothe.

Although I am not of opinion with *Mirros des Juſtices*, the antient book of our Common Law, that *Le Roy ne poit ſa Mony Empeirer ne amender ſans l'aſſent de touts ſes Counts*, which was the greateſt Councel of the Kingdome; yet can I not paſſe over the goodneſſe and Grace of money of our

Mirror des Juſtices.

our Kings: (As *Edward* the 1. and the 3. *Henry* the 4. and the 5. with others, who, out of that Rule of this Justice, *Quod ad omnes spectat, ab omnibus debet approbari*, have often advised with the people in Parliament, both for the Allay, Weight, Number of peeces, cut of Coynage and exchange;) and must with infinite comfort acknowledge, the care and Justice now of my Good Master, and your Lordships Wisedomes; that would not upon information of some few Officers of the Mint, before a free and careful debate; put in execution this Project, that I much (under your Honours Favour) suspect, would have taken away the Tenth part of every man's due debt or Rent already reserved throughout the Realme, not sparing the King; which would have been little lesse then a Species of that which the *Romane* Stories call *Tabulæ novæ*, from whence very often seditions have sprung: As that of *Marcus Gratidianus in Livie*, who pretending in his *Consulship*, that the Currant money was wasted by use, called it in, and altered the Standard; which grew so heavy and grievous to the People, as the Author saith, because no man thereby knew certainly his Wealth, that it caused a Tumult. Edw. 1. & 3. Hen. 4. & 5.

In this last part, which is, the Disprofit this enfeebling the coine will bring both to his Majestie and the Common-Wealth, I must distinguish the Monies of Profit.

Gold and Silver, as they are Bullion or Commodities, and as they are measure: The one, the Extrinsick quality, which is at the King's pleasure, as all other measures, to name; The other the Intrinsick quantity of pure metall, which is in the *Merchant* to value. As there the measure shall be either lessened or inlarged, so is the quantity of the Commodity that is to be exchanged. If then the King shall cut his shilling or pound nominall lesse then it was before, a lesse proportion of such Commoditie as shall be exchanged for it must be received. It must then of force follow, that all things of Necessity, as Victuall, Apparell, and the rest, as well as those of Pleasure, must be inhaunced. If then all men shall receive, in their shillings and pounds, a lesse proportion of Silver and Gold then they did before this projected Alteration, and pay for what they buy a rate inhaunced, it must cast upon all a double losse.

What the King will suffer by it in the Rents of his lands, is demonstrated enough by the alterations since the 18. of *Edward* the 3. when all the Revenue of the Crown came into the receipt *Pondere & Numero*, after five groats in the ounce; which since that time, by the severall changes of the Standard is come to five shillings, whereby the King hath lost two third parts of his just Revenue.

In his Customes, the best of rate being regulated

regulated by pounds and ſhillings, his Majeſty muſt loſe alike; And ſo in all and whatſoever monies that after this he ſhall receive.

The profit by this change in coynage, cannot be much, nor manent. In the other the loſſe laſting, and ſo large, that it reacheth to little leſſe then yearly to a ſixth part of his whole Revenue: for hereby in every pound tale of Gold there is nine ownces, one peny weight, and 19. grains loſſe, which is 25. l. in account, and in the 100 l. tale of Silver 59. ownces, which is 14. l. 17. s. more.

And as his Majeſty ſhall undergoe all theſe loſſes hereafter in all his receipts; ſo ſhall he no leſſe in many of his disburſements. The wages of his Souldiers muſt be rateably advanced as the money is decreaſed. This *Edward* the *third* (as appeareth by by the account of the Wardrobe and Exchequor) as all the Kings after were enforced to do, as oft as they leſſened the Standard of their monies. The prices of what ſhall be bought for his *Majeſties* ſervice, muſt in like proportion be inhaunced on him: And as his Majeſty hath the greateſt of Receipts and Iſſues, ſo muſt he of neceſſity taſte the moſt of loſſe by this device.

It will diſcourage a great proportion of the Trade in *England*, and ſo impaire his Majeſty's Cuſtomes. For that part (being not the leaſt) that payeth upon truſt and

credit will be overthrown; for all men being doubtfull of diminution hereby of their personal Estates, will call in their monies already out, and no man will part with that which is by him upon such apparent losse as this must bring. What danger may befall the State by such a suddaine stand of Trade, I cannot guesse.

The monies of Gold and Silver formerIn coyned and abroad, being richer then these intended, will be made for the most part here by Bullion, and so transported; which I conceive to be none of the least inducements that hath drawn so many *Gold-Smithes* to side this Project, that they may be thereby Factors for the strangers, who by the lownesse of minting (being but 2. s. Silver the pound weight, and 4. s. for Gold; whereas with us the one is 4. and the other 5. s.) may make that profit beyond sea they cannot here, and so his Majesty's mint unset on work.

And as his Majesty shall lose apparently in the alteration of monies a 14. in all the Silver, and a 25. part in all the Gold he after shall receive: so shall the Nobility, Gentry, and all other, in all their former setled Rents, Annuities, Pensions, and loanes of money. The like will fall upon the Labourers and Workmen in their Statute-wages: and as their receipts are lessened hereby; so are their Issues increased, either by improving all prices, or disfurnishing

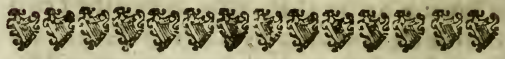
disfurnishing the Market, which must necessarily follow. For if in 5. *Edwardi* 6. 3. *Mariæ*, and 4. *Elizabethæ*, it appeareth by the Proclamations, that a rumor only of an alteration caused these Effects, punishing the Author of such reports with imprisonment and pillory; it cannot be doubted but the projecting a change must be of farre more consequence and danger to the State, and would be wished that the Actors and *Authors* of such disturbances in the Common-Wealth, at all times hereafter might undergo a punishment proportionable.

It cannot be held (I presume) an advice of best Judgement that layeth the losse upon our selves, and the gain upon our enemies: for who is like to be in this the greater Thriver? Is it not usual, that the Sranger that transporteth over monies for Bullion, our own Gold-Smithes that are their Brokers, and the Forreigne Hedge-minters of the *Netherlands* (which terms them well) have a fresh and full Trade by this abatement? And we cannot do the *Spanish* King (our greatest enemie) so great a favour as by this, who being the Lord of this Commodity by his *West-Indies*, we shall so advance them to our impoverishing; for it is not in the power of any State to raise the price of their own, but the value that their Neighbour Princes acceptance sets upon them.

Experience hath taught us, that the

enfeebling of coin is but a ſhift for a while, as drink to one in a dropſy, to make him ſwell the more: But the State was never throughly cured, as we ſaw by *Henry* the eights time and the late Queens, untill the coine was made up again.

I cannot but then conclude (my honorable Lords) that if the proportion of Gold and Silver to each other be wrought to that parity, by the advice of Artiſts, that neither may be too rich for the other, that the mintage may be reduced to ſome proportion of Neighbour parts, and that the iſſue of our Native Commodities may be brought to overburthen the entrance of the Forreign, we need not ſeek any way of ſhift, but ſhall again ſee our Trade to flouriſh, the Mint (as the pulſe of the Common-Wealth) again to beat, and our Materials, by Induſtry, to be a mine of Gold and Silver to us, and the Honour, Juſtice and Profit of his Majeſtie (which we all wiſh and work for) ſupported.



The

The Answer of the Committees appointed by your Lordships to the Proposition delivered by some Officers of the Mint, *for inhauncing his* Majestie's *monies of Gold and Silver.*

2. *September* 1626.

The first part. The Preamble.

WE conceive that the Officers of the Mint are bound by Oath to discharge their severall duties in their several places respectively. But we cannot conceive how they should stand tyed by oath to account to his Majesty and your Honors of the Intrinsick value of all Forreigne coines, and how they agree with the Standard of the State (before they come to the mint) for it is impossible and needlesse: In the one, for that all Forreigne States do, for the most part, differ from us and our money infinitely amongst themselves: In the other, it being the proper care of the Merchants, who are presumed not to purchase that at a dearer rate then they may be allowed for the same in fine Gold and

Silver in the coin of *England*, within the charge of coinage. And therefore needlesse.

To induce the necessity of the Proposition, they produce two instances or examples; The one from the *Rex Doller*, and the other from the *Royall of Eight*; wherein they have untruely informed your Honours of the price and value in our monies and our Trade of both of them. For whereas they say, that the *Rex Doller* weigheth 18. peny weight and 12. grains, and to be of the finest at the pound weight, 10. ownces, 10. pence weight, doth produce in exchange 5.s. 2.d. farthing of sterling monies. We do affirm that the same *Dollar* is 18.d. weight 18 graines, and in finesse 10.ownces 12.d.weight, equal to 4.s. 5. d. ob. of sterling monies, and is at this time in *London* at no higher price, which is short thereof by 13. graines and a half fine Silver upon every *Doller*, being 2. d. sterling or thereabout, being the charge of coynage, with a small recompence to the Gold-Smith or Exchanger, to the profit of *England* 3.s. 6. d. *per Centum*.

Whereas they do in their circumstance averr unto your Honours, that this *Doller* runnes in account of Trade amongst the Merchants as 5. s. 2.d.ob. *English* money: It is most false. For the Merchants and best experienced men protest the contrary, and that it passeth in exchange according to the Intrinsick value onely 4. s.5 .d. ob.

of

of the ſterling money, or neer thereabouts, and not otherwiſe.

The ſecond inſtance is in the *Royall of Eight*; affirming that it weigheth 17. peny weight, 12. graines; and being but of the fineneſſe of 11. ownces at the pound weight, doth paſſe in Exchange at 5. s. of our ſterling moneys, whereby we loſe 6 s. 7.d. in every pound weight. But having examined it by the beſt Artiſts, we find it to be 11. ownces 2.d. weight fine, and in weight 17. peny weight, 12. graines; which doth equall 4.s. 4.d. ob. of our ſterling monies, and paſſeth in *London* at that rate, and not otherwiſe, though holding more fine ſilver by 12. graines and a halfe in every *Royall of Eight*, which is the charge of coinage, and a ſmall overplus for the Gold-Smithes gain. And whereas they ſay, that the ſaid *Royall of Eight* runnes in account of Trade at 5.s. of his Majeſtie's now *Engliſh* money; the Merchants do all affirm the contrary, and that it paſſeth only at 4.s .4.ob. of the ſterling monies, and no higher ordinarily.

And it muſt be ſtrange (my honourable Lords) to believe that our Neighbours the *Netherlanders*, would give for a pound tale of our ſterling Silver, by what name ſoever it paſſeth, a greater quantity of their monies in the like intrinſick value by Exchange; Or that our Merchants would, knowing, give a greater for a leſſe to them,

except

except by way of uſance. But the deceipt is herein only, that they continually varying their coine, and crying it up at pleaſure, may deceive us for a time, in too high a Reputation of pure Silver in it, upon truſt, then there is, untill a trial; and this, by no Alteration of our coin, unleſſe we ſhould daily, as they make his Majeſty's Standard uncertain, can be prevented; which being the meaſure of Lands, Rents and Commerce amongſt our ſelves at home, would render all uncertain, and ſo of neceſſity deſtroy the uſe of money; and turn all to permutation of ſuch things as were not ſubject to will or change.

And as they have miſtaken the ground of their Propoſition; ſo have they, upon a ſpecious ſhew of ſome momentary and ſmall benefit to his *Majeſty*, reared up a vaſt and conſtant loſſe unto his Highneſſe by this deſigne, if once effected. For, as his *Majeſty* hath the largeſt portion of any both in the entrances and iſſues; ſo ſhould he by ſo enfeebling of his coine, become the greateſt loſer.

There needs no other inſtance then thoſe degrees of diminution from the 18. of *Edward* 3. to this day; at which time the Revenue of the Crown was paid after five Groats the ownce (which is now five ſhillings) which hath loſt his *Majeſty* two thirds of all his Revenue; and no leſſe hath all the Nobility, Gentry, and other his

18 Edw. 3.

his *Majestie's* landed Subjects in proportion suffered. But since, to our great comfort, we heard your Honours the last day to lay a worthy blame upon the *Mint-Masters*, for that intended diminution of the Gold-coine done by them without full warrant; by which we rest discharged of that fear: We will (according to our duties and your Honours command, deliver humbly our opinion concerning the reduction of the Silver-money now currant to be proportionably equivalent to the Gold.

The *English* sterling Standard, which was no little honour to *Edward* the first, that settled it from an inconstant motion, and laid it a ground that all the States of *Europe* after complyed to bring in their account, which was of Silver a 11. to one of Gold, the Kings of *England* for the most part since have constantly continued the same proportion: and *Spaine*, since *Ferdinand*, who took from hence his Patterne, have held & hold unchangeably the same unto this day: but since with us, a late improvement of Gold hath broke that Rule, and cast a difference in our Silver of six shillings in the pound weight; we cannot but in all humility present our fear, that the framing, at this time of an equality, except it were by reducing the Gold to the Silver, is not so safe and profitable as is proposed by those of the mint.

For whereas they pretend this, Our richnesse

richneſſe of our ſilver will carry out what now remaineth: We conceive (under favour) it will have no ſuch effect, but clean contrary. For all the currant Silver now abroad hath been ſo culled by ſome Gold-Smiths, the ſame either turned into Bullion, and ſo tranſported, that that which now remaineth will hardly produce 65.s. in the pound weight one with another; and ſo not likely, for ſo little profit as now it goeth, to be tranſported. But if the pound ſterling ſhould be as they deſire, cut into 70.s. 6.d. it muſt of neceſſity follow, that the new money will convert the old money (now currant) into Bullion; and ſo afford a Trade afreſh for ſome ill Patriot Gold-Smithes, and others, who formerly have more endamaged the State by culling, then any others by clipping; the one but trading in pounds, the other in thouſands; and therefore worthy of a greater puniſhment. And we cannot but have juſt cauſe (my Lords) to fear that theſe bad members have been no idle inſtruments, for their private benefit, to the publique detriment, of this new project, ſo much tending to enfeebling the ſterling Standard.

We further (under your Lordſhips favours) conceive, that the raiſing of the Silver to the Gold, will, upon ſome ſuddain occaſion beyond Sea, tranſport our Gold, and leave the State in ſcarciry of that, as now of Silver.

And

And to that Objection of the Proposers, That there is no Silver *brought* of late into the mint: The causes we conceive to be (besides the unusuall quantities of late brought into the mint in Gold)one the overballasing of late of Trade; the other, the charge of coinage. For the first,it cannot be but the late infectiou of this City was a let of exportation of our best commodity, Cloth, made by that suspected in every place. To this may be added the vast summes of money which the necessary occasion of warre called from his *Majesty* to the parts beyond the Seas, when we had *least* of Commodities *to* make even the ballance there.And lastly, dearth and scarcity of corne, which in time of plenty we ever found the best exchange to bring in silver. And therefore, since by Gods great Favour the Plague is ended, and generall Trade thereby restored,and more of Plenty this year,then hath been formerly these many years, of corn, we doubt not but if the Ports of *Spaine* were now as free as they were of late, there would not prove hereafter any cause to complaine of the want of Bullion in the State.

The second cause, that the mint remaines unfurnished; will be the charge of coinage, raised in price so farre above all other places, constraning each man to carry his Bullion where he may receive by coinage the lesse of losse. And therefore if it may please his *Majesty* to reduce the prices

prices here to the Rates of other of our Neighbour Countries, there will be no doubt but the mint will beat as heretofore.

Questions to be proposed to the Merchants, Mint-Masters, *and Gold-Smithes*, *Concerning the* Alteration *of the* Silver Monies.

1. WHether the *English* monies now currant are not as dear as the Forreign of the *Doller* and *Reall of* 8. in the intrinsick value in the usuall exchanges now made by the merchants beyond-Seas?

2. Whether this advancing will not cause all the Silver-Bullion, that might be transported in masse or Forreign coin, to be minted with the King's stampe beyond-sea, and so transported, and his Mint thereby set lesse on worke then now?

3. Whether the advancing the Siver-coine in *England* will not cause a transportation of most of that that is now currant to be minted in the *Netherlands*, and from them brought back again, whereby his Majestie's mint will faile by the exported benefit?

4. Whethet the advancing the Silver coine, if it produce the former effects, will not cause the Markets to be unfurnished

nished of present coine to drive the exchange, when most of the old will be used in Bullion?

5. Whether the higher we raise the Coyne at home, we make not thereby our Commodities beyond-sea the cheaper?

6. Whether the greatest profit by this enhauncing will not grow to the ill members of the State, that have formerly culled the weightiest peeces, and sold them to the stranger-Merchants to be transported?

Certain Generall Rules collected concerning Money and Bullion, out of the late Consultation at Court

GOld aud Silver have a twofold estimation: In the Extrinsick, as they are monies, they are the Princes measures given to his people, & this is a Prerogative of Kings: In the Intrinsick they are Commodities, valuing each other according to the Plenty or scarcity; and so all other Commodities by them; And that is the sole power of Trade.

The measures in a Kingdome ought to be constant: It is the Justice and Honour of the King: for if they be altered, all men at that instant are deceived in their precedent contracts, either for Lands or money, and the King most of all: for no man

man knoweth then, either what he hath or what he oweth.

1573. This made the Lord Treasurer *Burleigh* in 73. when some Projectors had set on foot a matter of this nature, to tell them, that they were worthy to suffer death for attempting to put so great a dishonour on the Queen, and detriment and discontent upon the People. For, to alter this publique measure, is to leave all the Markets of the Kingdome unfurnished; and what will be the mischief, the Proclamations of 5. *Edwardi* 6. 3. *Mariæ* and 4. *Elizabethæ*; will manifest; when but a Rumor of the like produced that effect so farr, that besides the faith of the Princes to the contrary delivered in their Edicts, they were inforced to cause the Magistrates in every shire respectively to constrain the people to furnish the Markets to prevent a mutiny.

5. Edw. 6.
3. Mariæ.
4. Eliz.

To make this measure then, at this time short, is to raise all prizes, or to turn the money or measure now currant into disise and Bullion: for who will depart with any, when it is richer by seven in the hundred in the masse, then the new monies; and yet of no more value in the Market?

Hence of necessity, it must follow, that there will not in a long time be sufficient minted of the new to drive the exchange of the Kingdome, and so all Trade at one instant at a stand; and in the mean time the

the *Markets* unfurnished: Which how it may concern the quiet of the State, is worthy care.

And thus far as money is a measure.

Now, as it is a Commodity, it is respected and valued by the intrinsick quality. And first the one metall to the other.

All commodities are prized by Plenty or scarcity, by dearnesse or cheapnesse, the one by the other: If then we desire our Silver to buy Gold, as it late hath done, we must let it be the cheaper, and lesse in proportion valued; and so contrary: for one equivalent proportion in both will bring in neither. We see the proof thereof by the unusual quantity of *Gold* brought lately to the Mint by reason of the price: for we rate it above all other Countries, and Gold may be bought too dear. To furnish then this way the mint with both, is altogether impossible.

And at this time it was apparently proved, both by the *best Artists* and *Merchants* most acquainted with the *Exchange*, in both the examples of the Mint-masters, in the *Rex Dollar* and *Reall of Eight*, That Silver here is of equal value, and *Gold* above, with the forreigne parts in the intrinsick; and that the *fallacy* presented to the *Lords* by the *Mint-Masters*, is only in the *nomination* or extrinsick quality.

But if we desire both, it is not raising of the value that doth it; but the *ballasing* of *Trade*: for buy we in more then we

ſell of other *Commodities*, be the money never ſo high prized, we muſt part with it to make the diſproportion even: If we ſell more then we buy, the contrary will *follow*:

And this is plain in *Spaine's* neceſſities: For ſhould that King advance to a double rate his *Reall of* 8. yet needing, by reaſon of the barrenneſſe of his Countrey, more of Forreign Wares then he can countervail by Exchange with his own, he muſt part with his money, and gaineth no more by enhauncing his Coin, but that he payeth a higher price for the Commodities he buyeth; if his work of raiſing be his own. But if we ſhall make improvement of *Gold* and *Silver*, being the ſtaple *Commodity* of his State; we then advancing the price of his, abaſe to him our own Commodities.

To ſhape this Kingdome to the faſhion of the *Netherlanders*, were to frame a Royal *Monarch* by a Society of Merchants. Their Countrey is a continual Faire, and ſo the price of Money muſt riſe and fall to fit their occaſions. We ſee this by raiſing the *Exchange* at *Franckford* and other places at the uſual times of their Marts.

The frequent and daily change in the low Countries of their monies, is no ſuch injuſtice to any there, as it would be here. For being all either Mechanicks or Merchants, they can rate accordingly their labours or their wares, whether it be coin or other Merchandiſe, to the preſent condition of their own money in Exchange.

And

And our *English* Merchants, to whose profession it properly belongs, do so, according to the just intrinsick value of their Forreign coine, in all barter of Commodities, or Exchange, except at Usance; Which we, that are ruled and tyed by the extrinsick measure of monies, in all our constant Reckonings and Annual bargains at home, cannot do.

And for us then to raise our coine at this time to equal their proportions, were but to render our selves to a perpetual incertainty: for they will raise upon us daily then again; which if we of course should follow, else receive no profit by this present change, we then destroy the *Policy, Justice, Honour and Tranquillity* of our *State* at home for ever.

THE DANGER WHEREIN THIS KINGDOME NOW STANDETH, AND THE REMEDY.

Written by Sir Rob. Cotton Knight and Baronet.

LONDON,
Printed in the year 1651.

THE DANGER Wherein this Kingdome now ſtandeth, and the REMEDIE.

AS ſoon as the houſe of *Auſtria* had *incorporated* it ſelf into the houſe of *Spaine*, and by their new *Diſcoveries* gotten to themſelves the *Wealth* of the *Indies*; they began to affect, and have ever ſince purſued a fifth *Monarchy*.

The Emperour *Charles* would firſt have laid the foundation thereof in *Italy*, by ſurprizing *Rome*. But from this he was thruſt by the force and reſpect of *Religion*, *Henry* the 8. being made *Caput fœderis* againſt him.

He then attempted it in *High-Germany*, practiſing (by Faction and Force) to reduce thoſe petty States to his abſolute power. In this *Henry* the 8. againe prevented him, by tying the *Lutheran Princes* under his confederacy and aſſiſtance.

His Sonne, the ſecond *Philip*, purſued the ſame Ambition in the *Nether-Garmany*,

by reduction whereof he intended to make his way further into the other. This the late *Queene* of *England* interrupted, by siding with the afflict d people on the one part, and making her selfe Head of the *Protestant* League with the Princes on the other side; drawing in, as a secret of State, the Countenance of *France*, to give the more reputation and Assistance to them, and Security to it selfe.

Spaine seeing his hopes thus fruitlesse by these Unions and sleights, began first, to break, (if he might) the Amity of *France* and *England*: But finding the Common danger to be as fast a Tye, he raiseth up a party in that Kingdome of his own, by the which the *French* King was so distressed, that had not the *English* Councel and Assistance releeved him, *Spaine* had there removed that next and greatest obstacle of his ambition.

His Councel now tells him, from these examples, that the way to his great work is impassable so long as *England* lies a let in to his way; and adviseth him, that the remove of that obstacle be the first of his intents. This drew on those often secret practices against the person of the late Queene, and his open fury in 88. against the Body of the State: For which, she (following the advice of a free Councel) will never after admit of Peace, winning thereby the hearts of a loving people, who ever found hands and money for all occasi-

ons

ons at home; and keeping ſacredly her Alliances abroad, ſecured her confederates, all her time in *freedome* from fear of *Spaniſh* ſlavery; And ſo ended her old and happy daies in great Glory.

Spaine then, by the Wiſdome and power of that great *Lady*, diſpoiled ſo of his means to hurt, though not of his deſire, makes up, with her peaceful Succeſſor of happy memory, the Golden League, that (diſarming us at home by opinion of Security, and giving them a power in our Councel by beleeving their friend-ſhip and pretended Marriage) gave them way to cheriſh amongſt us a party of their owne, and (bereaft of power abroad) to leade in jealouſie, and ſowe a diviſion betweene us and our confederates; by which (we ſee) they have ſwallowed up the fortune of our Maſter's brother, with the reſt of the Imperiall States, diſtreſſed the King of *Denmarke* by that quarrel; diverted *Sweden's* Aſſiſtance by the wars with the *Pole*, and moving of him now with the offer of the *Daniſh* Crowne: And now (whether from the Plot; or our Fatality) it hath caſt ſuch a *Bone* between *France* and us, as hath gotten themſelves (by our quarrel of Religion) a faſt confederate, & us a dangerous enemy: So that now we are left no other Aſſurance againſt their Malice and Ambition, but the *Nether-lands*; where the Tie of mutual ſafety is weak'ned by dayly diſcontents bred and fed between

us from ſome il-affected to both our Securities; that from the doubtfulneſſe of friend-ſhip as now we ſtand, we may rather expect from our own domeſtick faction, if they grow too furious, they will rather follow the example of *Rome* in her growing; that held it equally ſafe, honorable, and more eaſie, *dare Regem* then *ſubjugare Provinciam*; conſidering the power they have in their hands, then to give any friendly Aſſiſtance to ſerve the preſent condition of our State. You may ſee therefore in what terms we ſtand abroad; and I feare me, at home; for reſiſtance in no better State.

There muſt be, to withſtand a Forreign Invaſion, a *proportion* both of Sea and Land-forces; for to give an enemy an eaſie paſſage, and a port to releeve him in, is no leſſe then to hazard all at one ſtake. And it is to be conſidered, that no march by land, can be of that ſpeed, to make head againſt the landing of an enemy, nor no ſuch prevention as to be Mr. of the Sea. To this point of neceſſary defence, there can be no leſſe then 240000. l.

For the land-forces: If it were for an Offenſive warre, the men of leſſe livelihood were the beſt ſpared, and were uſed formerly to make ſuch warre, *purgamento Reipublicæ*, if we made no further purchaſe by it. But for ſafety of a Common-wealth, the Wiſdom of all times, did never intereſt the publique cauſe to any other then ſuch

as

as had a portion in the *publique adventure.* And that we saw in 88. when the *care of the Queene and Councel, did make the body of that large Army, no other then of trained bands,* which with the *Auxiliaries* of the whole *Realm,* amounted to no lesse then 24000. men. Neither were any of *those* drawn out *from forth their* Countries, *and proper habitations before the end of May, that there might be no long aggrievance to the publique;* such *discontentments* being ever to us a more *fatall Enemy* then any *Forreigne force.*

The careful *distribution* and *direction* of the *Sea* and *Land-forces,* being more fitting for a *Councel of Warre then a private Man to advise of,* I passe over; yet shall ever be willing and ready (when I shall be called) *humbly to offer up such observations, as I have formerly gathered by the former like occasions of this Realme.*

To make up this preparation, there are requisite two things: Money and affections; for they cannot be properly severed. It was well & wisely, said, by that great and grave Councellor the Lord Burleigh in the like case to the late Queen: Win hearts and you may have their hands and purses: And I finde of late, that diffidence having been a defect in the one, it hath unhappily produced the other.

In gathering then of money for this present need, there are required three things: *Speed, Assurance,* and *Satisfaction.* And the way to gather (as others in the like cases have done) must be by that path, which hath been formerly called *Via Regia,* being

ing more ſecure and ſpeedy: For, by unknowne and untroden wayes, it is both rough and tedious, and ſeldome ſucceedeth well. This laſt way, although it took place as it were by a ſupply at firſt, and received no general denial; yet ſince it hath drawne many to conſider with themſelves and others of the Conſequence, and is now conceived a preſſure on their liberties and againſt law: I much fear, if now againe it be offered, either in the ſame face, or by Privy Seale, it will be refuſed wholly. Neither finde I that the reſtraint of thoſe Recuſants hath produced any other effect then a ſtiffe reſolution in them and others to forbeare. *Beſides, though it went at the firſt with ſome aſſurance; yet when we conſider the Commiſſions and other formes incident to ſuch like ſervices, as that how long it hangs in hand, and how many delaies there were, wee may eaſily ſee, that ſuch a ſumme by Parliament granted, is farre ſooner and more eaſily gathered.*

If any will make the ſucceſſes of times to produce an inevitable neceſſity to enforce it: denied (whether in general by exciſe I or impoſition, or in particular upon ſome ſelect perſons (which is the cuſtome of ſome Cuontries (and ſo conclude it (as there) for the *publique State, Supreamà lege*) he muſt look for this to be told him: That ſeeing neceſſity muſt conclude alwayes to gather money, as leſſe ſpeedy or aſſured then that ſo practiſed (which *cannot* be fitter then by Parliament)

Parliament) the ſucceſſe attendeth the humors of the heedleſſe multitude, that are full of jealouſie and diſtruſt; and ſo unlike to comply to any unuſual courſe of Levy, but by force: Which if uſed, the effect is fearful, and hath been fatal to the State; whereas that by Parliament reſteth principally on the regall perſon, who may with eaſe and ſafety mould them to his fit deſire, by a gracious yeelding to their juſt Petitions.

If a Parliament then be the moſt *ſpeedy, aſſured, and ſafe way*; it is fit to conceive, what is the ſafeſt way to act and worke it to the preſent need.

Firſt, for the time of the uſual Summons, reputed to be 40. dayes, to be too large for the preſent neceſſity: it may be by dating the Writ leſſened; ſince it is no poſitive law; ſo that a care be had that there may be one County day, after the Sheriffe hath received the Writ before the time of ſitting.

If then the ſumme to be levyed be once agreed of, for the time there may be in the body of the *Grant* an *aſſignment* made to the *Knights* of every *County* reſpectively, who (under ſuch *Aſſurance*) may ſafely give *Security proportionable* to the Receipts, to ſuch as ſhall in preſent *advance* for the *Publick* ſervice any *ſums* of *money*.

The laſt and weightieſt conſideration (if a *Parliament* be *thought fit*) is; how to *remove* or *comply* the *differences between* the *King* and

Subject

Subject in *their mutual demands*. And what I have learned amongst the better sort of the *Multitude*, I will freely declare; that *your Lordships* may be the *more* inabled to *remove* and *answer those distrusts*, that either *concern Religion*, *Publick safety of the King and State*, or the just liberties of the *Common-Wealth*.

For *Religion*(a *matter* that they lay nearest to *their conscience*) *they are lead by this ground of jealousie to doubt some practise against it.*

First, *for that the Spanish match*, *which was broken by the gratefulIndustry of my Lord of Buckingham out of his Religious care*(*as he there declares*) *that the Articles there demanded might leade in some such sufferance as might endanger the quiet*, *if not the State of the reformed Religion here*: *Yet there have* (*when he was an Actor principall in the Conditions with France*) *as hard*, *if not worse*(*to the preservation of our Religion*) *passed then those with Spain. And the suspect is strengthened by the close keepiug of this Agreement in that point there concluded.*

It is no lesse an Argument of doubt to them of his Affections, *in that his Mother*, *and others*, *many of his Ministers of neer imployment about him*, *are so affected.*

They talk much of his advancing men *Papistically* devoted; some placed in the campe, of nearest service and chief Command: And that the Recusants have gotten, these late years, by his power, more of courage and assurance then before. If to clear these doubts (which perhaps are worse in fancy then in truth) he took a good

good course, it might much advance the *Publique service*, against those *squeymish humours* that have more *violent passion* then *setled Judgement*; and are not the least of the *opposite number* in the *Common-Wealth*.

The next is, The late misfortunes and losses of Men, Munition, and honour in our late Undertakings abroad: Which the more temperate spirits impute to want of Councell, and the more sublime wits to practise.

They begin with the *Palatinate*, and by the *fault* of the *losse there*, on the *improved credit* of *Gondomar*, distrusting him for the staying of supplies to Sir *Horace Vere*, when *Colonell Cecill was cast on that imployment, by which the King of Spain became Master of the King's Children's Inheritanee.*

And when *Count-Mansfield* had a Royall Supply of Forces, to assist the *Princes* of our part, for the Recovery thereof: either plot or error *defeated* the *Enterprize* from Us, to *Spains* great advantage.

That Sir *Robert Mansfield's expedition* to *Algiers*, should purchase only the *security and guard* of the *Spanish Coasts*. To spend so many *hundred thousand pounds* in the *Cales Voyage*, against the *advise* of *Parliament*, onely to warn the *King of Spain* to be in a *readinesse*, & so to weaken our selves is taken for such; a signe of ill affection to him, amongst the multitude.

The spending of so much *Munition*, *Victualls*, and *Money* in my *Lord Willoughbie's journey*, is conceived an *Unthrifty Error* in the

the *Director* of it to disarme our selves in *fruitlesse Voyages*, nay, to some (*over-curious*) seems a *plot* of *danger*, to turn the *quarrel* of *Spain* (*our antient Enemy*) that the *Parliament petitioned and gave supply* to support, upon our *Ally* of *France*: and soon after, a new & happy Ty gave much talk that we were not so doubtful of *Spaine* as many wish; since it was held, not long ago a fundamental Rule of *Their Security* and *Our's*, by the old Lord *Treasurer Burleigh*: That nothing can prevent the *Spanish Monarchy*, but a fastnes of the two *Princes*, whose *Amity* gave countenance and courage to the *Netherlands* and *Germain Princes* to make head against his *Ambition*. And we see, by this dis-union a fearful defeat hath happened to *Denmark* and that party, to the great advantage of the *Austrian Family*.

And thus farr of the Waste of publique Treasure in fruitlesse Expeditions: An important cause to hinder any new *supply* in *Parliament*. Another fear that may disturb the smooth and speedy passage of the King's desires in *Parliament*, is the late waste of the King's *Lively-hood*; Whereby is like (as in former times) to arise this Jealousy and fear: *That when he hath not of his own to support his ordinary charge (for which the Lands of the Crown were setled unalterable, and called Sacrum Patrimonium Principis) that then he must of necessity rest on those Assistances of the People which ever were onely collected and consigned for the Common-Wealth. From hence it is like, there*

there will be no great labour or stiffnesse to induce his Majesty to an act of Resumption; since such desires of the State have found an easy way in the will of all the Princes from the *third Henry* to the last. But that which is like to passe deeper into their disputes and care, is the late pressures they suppose to have been done upon the publique libertie & freedom of the Subject, in commanding theirGoods without assent by Parliament, confining their persons without especial cause declared; and that made good against them by the Judges lately; and pretending a Writ to command their attendance in a Forreigne Warre. All which they are likely to enforce, as repugnant to many positive lawes, and Customary Immunities of this Common-Wealth.

And these dangerous distrusts, to the people are not a little improved by this un-exemplified course (as they conceive) of retaining an Inland Army in Winter-season,when former times of greatest fear, as 88. produced no such ;and makes them (in their distracted fears) to conjecture (idly) it was raised wholly to subvert their fortunes to the will of power ,more then of Law; and so make good some further breaches upon their liberties and freedomes at home, rather then defend us from any force abroad.

How farr such Jealousies, if they meet with an unusual disorder of lawlesse Souldiers, or an apt distemper of the loose and

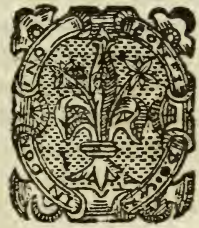
needy

needy multitude, which will easily turn away upon any occasion in the State that they can side withal, to a glorious pretence of Religion and publique safety, when their true intent will be onely Rapine of the rich, and Ruin of all, is worthy a provident and preventing care.

I have thus farre delivered (with that freedome you pleased to admit) such difficulties as I have taken up amongst the multitude, as may arrest, if not remove Impediments to any speedy supply in Parliament at this time. Which how to facilitate, may better become the care of your Lordships Judgements, then my Ignorance. Only I could wish, that to remove away a personall distaste of my *Lord* of *Buckhinham* amongst the *People, he might be pleased (if there be a necessity of Parliament) to appear a first Adviser thereunto: and what satisfaction it shall please his Majesty, of grace, to give at such time to his People (which I wish to be grounded by President of his best and most fortunate Progenitors, & which I conceive will largely satify the desires and hopes of all) If it may appear in some sort to be drawn down from him to the People, by the zealous care & industry that my L. of Buck. hath of the publick unity and content; by which there is no doubt that he may remain, not only secure from any further quarrel with them, but merit an happy memory amongst them of a zealous Patriot. For to expiate the Passion of the people at such time with sacrifice of any his Majesties Servants, I have ever found it (as in E. the 2. R. the 2. and H. 6.) no lesse fatal to the Master, then the Minister in the end.*

VALOUR ANATOMIZED IN A FANCIE.

By Sir PHILIP SIDNEY.
1581.



LONDON,
Printed in the year 1651.

VALOVR ANATOMIZED IN A FANCIE.

VAlour towards Men, is an Emblem of Ability, towards Women, a Good quality ſignifying a better. Nothing draws a Woman like to it. Nothing is more behovefull for that Sex: for from it they receive Protection, and in a free way too, without any danger. Nothing makes a ſhorter cut to obtaining: for a Man of Arms is alwaies void of Ceremony, which is the Wall that ſtands betwixt *Piramus* and *Thisby*, that is Man, and Woman: For there is no Pride in Women but that which rebounds from our own Baſeneſs (as Cowards grow Valiant upon thoſe that are more cowards) So that only by our pale asking we teach them to deny; and by our ſhamefac'dneſſe we put them in mind to be modeſt. Whereas indeed it is cunning Rhetorique to perſwade the hearers that they are that already which the world would have them

to be. This kind of Bashfullnesse is farre from Men of valorons disposition, and especially from Souldiers: for such are ever Men (without doubt) forward and Confident, losing no time lest they should lose Opportunity, which is the best Factor for a Lover. And because they know Women are given to dissēble, they will never believe them when they deny. Certainely before this age of Wit and wearing Black brake in upon us, there was no way known to win a Lady, but by Tilting, Turneying, and Riding to seeke Adventures through dangerous Forrests; In which time these slender Striplings with little Legs were held but of Strength enough to marry their Widdowes. And even in our dayes, there can be given no reason of the inundation of Servingmen upon their Mistresses, but only that usually they carry their Masters Weapons, and their Valour. To be accounted handsome, just, learned, and well favoured, all this carries no danger with it. But it is better to be admitted to the title of Valiant acts: at least that imports the venturing of Mortality; and all Women delight to hold him safe in their Arms who hath escaped thither through many dangers. To speak at once; Man hath a Privile ge in Valour. In Cloathes and good Faces we do but imitate Women; and many of that Sex will not think much (as far as an answer goes)

to

to diſſemble Wit too. So then theſe neat Youths, theſe Women in Mens Apparrell, are too near a Woman to be beloved of her; they be both of a Trade, but he of grim aſpect, and ſuch a one a laſſe dares take, and will deſire him for Newneſſe and Variety. A Scar in a Mans face, is the ſame that a Mole is in a Womans, and a Mole in a Womans is a jewel ſet in White, to make it ſeem more white. So a Scar in a Man is a marke of honour, and no blemiſh; for tis a Scar and a Blemiſh in a Souldier to be without one. Now as for all things elſe which are to procure love, as a good Face, Wit, Cloathes, or a good Body; each of them (I muſt needs ſay) workes ſomewhat for want of a better; that is, if Valour corrive not therewith. A good Face avayleth nothing; if it be on a Coward that is baſhfull, the utmoſt of it is to be kiſt, which rather increaſeth than quencheth Appetite. He that ſendeth her Gifts, ſends her word alſo, that he is a Man of ſmall Gifts otherwiſe: for wooing by ſignes and tokens implies the Author dumbe. And if *Ovid* (who writ the Law of Love) were alive, as he is extant, and would allow it as a good diverſity; then Gifts ſhould be ſent as Gratuities, not as Bribes; and Wit would rather get promiſe than Love. Wit is not to be ſeene, and no Woman takes advice of any in her Loving, but of her own Eyes, or her

Wayting Womans: nay, which is worse, Wit is not to be felt, and so no good Bedfellow. Wit applied to a Woman makes her dissolve her simperings, and discover her Teeth with Laughter; and this is surely a Purge for Love: for the beginning and originall of Love is a kind of foolish Melancholy. As for the Man that makes his Taylor his Bawde, and hopes to inveagle his Love with such a coloured Suite, surely the same man deeply hazzards the losse of her Favour upon every Change of his Cloathes. Soe likewise the other that Courts her silently with a good Body, let me tell him that his cloathes stand allwaies betwixt his Mistris eyes and him. The Comlynesse of Cloathes depends upon the Comlines of the Body, and so Both upon Opinion. She that hath been seduced by Apparrell, let me give her to weete, that men allwayes put off their Cloathes before they go to bed; and let her that hath been inamored of her Servants Body understand, that if She saw him in a skin of Cloath (that is, in a suite made to the pattern of his Body) she would discern slender cause to Love him ever after. There are no Cloaths fit so wel in a Womans eye, as a Suite of Steele, though not of the fashion: and no man so soon surpriseth a Womans Affections, as he that is the subject of Whisperings, and hath allwaies some 20 stories of his own Atchieve-

chievements depending upon him. Mistake me not, I understand not by Valour one that never fights but when he is backt by Drink or Anger, or hissed on by Beholders; nor one that is desperate, nor one that takes away a Servingmans Weapons, when perhaps they cost him his quarters wages; nor one that wears a privy Coat of defence, and therein is Confident: for then such as make Bucklers would be accounted the very scum of the Common-wealth. I intend one of an even Resolution, grounded upon Reason, which is allwaies even; having his Power restrayned by the Law of not doing Wrong.

Philip Sidney.

Wooing-stuffe.

FAint Amorist: what, do'st thou think
To tast Loves Honey, and not drink
One dram of Gall? or to devour
A world of sweet, and tast no sour?
Do'st thou ever think to enter
Th' *Elisian* fields that dar'st not venture
In *Charons* Barge? a Lovers mind
Must use to sayle with every wind.

He

He that loves, and fears to try ,
Learns his Miſtris to deny.
Doth ſhe chide thee? 'tis to ſhew it,
That thy Coldneſs makes her do it;
Is ſhe ſilent? is ſhe mute?
Silence fully grants thy Sute;
Doth ſhe pout, and leave the room?
Then ſhe goes to bid thee come;
Is ſhe ſick? why then be ſure,
She invites thee to the cure;
Doth ſhe croſs thy ſute with No?
Tuſh, ſhe loves to hear thee woo;
Doth ſhe call the faith of man
In queſtion? Nay, 'uds-foot, ſhe loves thee than;
And if e're ſhe make a blot,
She's loſt if that thou hit'ſt her not.
He that after ten denialls,
Dares attempt no farther tryals,
Hath no warrant to acquire
The Dainties of his Chaſt deſire.

Philip Sidney.

Sir

Sir *Francis Walsingham's*

ANATOMIZING

Of { *Honesty*, *Ambition*, and *Fortitude*.

Written in the year 1590,

LONDON,
Printed in the yeare
1651.

Sir *Francis Walsinghams*

ANATOMIZING

Of { *Honesty*, *Ambition*, and *Fortitude*.

WHat it is directly that I wil write, I know not. For, as my thoughts have never dwelt long upon one thing; and so my Mind hath been filled with the Imagination of things of a different nature: So there is a necessity that this Offspring of so un-composed a Parent must be mishaped, answerable to the Originall from whence it is derived. Somewhat I am resolved to write, of some Vertues, & some Vices, and some indifferent things. For, knowing that a Mans life is a perpetuall Action, which every moment is under one of these three heads; my Imaginations have ever chiefly tended to find out the Natures of these things, that I might, (as much as my Frailty (the inseparable companion of Mans nature) would give me leave)

leave) weare out this Garment of my Body, with as little Inconvenience to my Soule as I could, and play this game of Converſation (in which every one (as long as he lives) makes one) with the reputation of a fair Gamſter, rather than of a cunning one.

And firſt I will write of Honeſty; not in its generall ſenſe (in which it comprehends all Morall Vertues) but in that particular in which (according to our phraſe) it denominates an Honeſt man.

Honeſty is a quiet paſſing over the days of a mans life, without doing Injury to another man.

There is required in an Honeſt man, not ſo much to doe every thing as he would be done unto, as to forbear any thing that he would not be content to ſuffer; For the Eſſence of Honeſty conſiſts in forbearing to doe ill: And to good Acts is a proper Paſſion, and no Eſſentiall part of Honeſty. As Chaſtity is the Honeſty of Women, ſo Honeſty is the Chaſtity of Men. Either of them once impaired is irrecoverable. For a Woman that hath loſt her Maidenhead, may as eaſily recover it, as a Man that hath once taken liberty of being a Knave can be reſtored to the title of an Honeſt Man. For Honeſty doth not conſiſt in the doing of one, or one thouſand acts never ſo well; but in ſpinning on the delicate thredds of life, though not exceeding Fine, yet free from Bracks,

and

and Staines. We doe not call him an Honest man, but a Worthy man, that doth brave eminent Acts: But we give him the title of an Honest man, of whom no man can truly report any ill.

The most eminent part of Honesty is Truth: not in Words (though that be necessarily required) but in the Course of his life; in his Profession of Friendship; in his Promise of Rewards and Benefits to those that depend upon him; and gratefull acknowledging those good turns that he receives from any man.

The greatest Opposite to Honesty is Falshood; and as that is commonly waited upon with Cunning & Dissimulation, so is Honesty with Discretion and Assurance.

It is true that Custome makes some apparently false; some through Impudence, and too much use; and other some for want of Discretion, which if they had had, should have been employed in Covering it. And there be some in whom (though it be impossible Honesty should be a Fault in Society) their indiscreet managing of it, makes it holden for a thing thats merely a Vice, a wonderfull troublesome Companion.

An Honest man is as neer an Aptitude to become a Friend, as Gold is to become Coyn: he will melt with good Offices well done, and will easily take the stampe of true Friendship; and having once taken it,

it, though it may be bended and bruiſed, yet ſtill will keep his ſtamp clean without Ruſt or Canker, and is not aſhamed to be encloſed in it, but is contented to have all his glory ſeen through it onely.

It is of it ſelf a Competent Eſtate of Vertue, able to ſupply all neceſſary parts of it to a Mans own particular; and a Man that is born to it, may raiſe himſelf to an eminency in all Vertues; though of it ſelf it will not furniſh a Man with the abilities of doing any glorious thing. It is pity that Honeſty ſhould be abſtracted from the luſtre of all other Vertues. But if there be ſuch an Honeſty, the fitteſt Seat for it is the Countrey, where there will be little need of any greater Ability, and it will be leaſt ſubject to Corruption. And therefore, ſince it is the Foundation upon which a man may build that part of his life which reſpects Converſation, he that builds upon it (let his actions be never ſo mean) ſhall be ſure of a good, though not of a great Reputation; whereas letting it periſh, let the reſt of the Building of his life be never ſo eminent, it will ſerve but to make the ruine of his good Name more notorious.

Of

Of Ambition.

LOve, Honour, and Praiſe are the greateſt Bleſſings of this world: All other Contents reflect primarily upon the Body; and pleaſe the Soule onely becauſe they pleaſe ſome one or more Senſes. But thoſe therefore only delight the Senſes, becauſe the Soule by diſcourſe was firſt pleaſed with them. For in it ſelf there is more Muſick in a railing Song, thruſt upon a good Ayre, than in the confuſed Applauſe of the Multitude. But becauſe the Soul, by Diſcourſe, finds this Clamor to be an argument of the Eſtimation which thoſe that ſo Commend it have of it, it likes it ſelfe better, and rejoyceth the more in it ſelf, becauſe it ſees other men value it. For there are two wayes of proving; the one by Reaſon, and the other by Witneſs; but the more excellent Proof is that of Reaſon: For he that can by Reaſon prove any thing to me makes his knowledge mine, becauſe by the ſame Reaſon I am able to prove it to another; But if 20. men ſhould ſwear to me they ſaw ſuch a thing, which before I did not beleeve; it is ttue, I ſhould alter mine opinion, not becauſe there appeared any greater likelihood of the thing; but becauſe it was unlikely that ſo many men ſhould lie: And if I ſhould goe about to make others of the ſame opinion, I could not

not doe it, by telling them I knew it, or I saw it; but all I could say were, I did believe it, because such & such men told me they saw it. So in the Comfort a man takes of himself (which growes out of the consideration of how much it self deserves to be beloved) a vertuous wise fellow will take enough Comfort and Ioy in himselfe (though by Misfortune he is troubled to carry about with him the worlds Ill Opinion) by discoursing that he is free from those Slanders that are laid upon him, and that he hath those Sufficiencies and Vertues which others deny. And on the contrary side; he without deserving it (having the good Fortune to be esteemed and honoured) will easily be drawn to have a good Opinion of himself; as, out of Modesty, submitting his own Reason to the testimony of many Witnesses.

Ambition, in it self is no Fault; but the most naturall Commendation of the Soule, as Beautie is of the Bodie. It is in Men, as beauty is in Women. For, as to be naturally exceeding handsome is the greatest Commendation of that Sexe, and that for which they most desire to be Commended: So that Ambition by which Men desire Honour the naturall way (which consists in doing honourable and good Acts) is the root of the most perfect Commendation that a morall Man is capable of.

Those

Thoſe onely offend in their Ambition, who, out of the earthlineſſe of their minds dare not aſpire to that true Honor which is the eſtimation of a man, being as it were the Temple wherein Vertue is inſhrin'd; And therefore ſettle their minds onely upon attaining Titles and Power; which at the firſt were, or at leaſt ſhould be the Mark whereby to diſtinguiſh men according to the Rate of their Vertues and ſufficiencies; but are now onely Arguments of a Mans good Fortune, and effects of the Princes favour.

It is true that Power is a brave addition to a worthy Man; but a foole, or a knave that is powerfull, hath (according to the degree of his Power) juſt that advantage of a vertuous prudent man, that *Adam*, before he fell, had of the Angels that ſtood; an Ability to do more ill.

As for Titles (which at firſt were the marks of Power, and the Rewards of Vertue) they are now (according to their name) but like the Titles of Books, which (for the moſt part) the more glorious things they promiſe, let a Man narrowly peruſe them over, the leſſe ſubſtance he ſhall finde in them. And the wooden *Lord* is like the *Logg* that *Iupiter* gave the Froggs to be their King; it makes a great noiſe; it prepares an expectation of great matters; but when they once perceived it unactive, and ſenſeleſly lying ſtill, the wiſer ſort of Froggs began to de-

ſpiſe it, and (in fine) every young Frogling preſumed to leap up and down upon it.

Some few there are, who (leſt the ſpecies of our ancient worthy Lords ſhould be loſt) doe preſerve in themſelves the will and deſire, ſince they want the means, to doe brave and worthy Acts. And therefore I ſay, let a Man by doing worthy Acts deſerve houour, and though he doe not attain it, yet he is much a happier man than he that gets it without deſert. For ſuch a man is before hand with Reputation; and the world ſtill owes him rhat honour which his deſerts cry for, and it hath not paid; Whereas that man that hath a great Reputation, without deſerving it, is behinde hand with the world; and his honour is but lent, not payd; And when the world comes to take accompt of its Applauſe, and finds his Title of Merit (by which he pretends to it) weak and broken, it will recall it's Approbation, and leave him by ſo much the more a notorious Bankrupt in his good Name, by how much the Eſtimation of his Wealth that way was the greater.

Of Fortitude.

FOr a Man to be Compleatly happy there is required the Perfection of all Morall Virtues; And yet this is not enough

nough. For, Virtues doe rather banish Misfortunes, and but shew us Ioy, than establish Felicity: Which is not onely an utter Alienation from all Affliction, but an absolute Fulness of Ioy. And since the Soule of Man is infinitely more excellent than any thing else it can meet withall in this World, nothing upon Earth can satisfie it, but in the enjoying of the greatest Abundance of all delights that the most nimble witted Man can frame to himself; For that his Soule will still have a further Desire, as unsatisfied with that it enjoyes. Therefore the Prefection of Happinesse consists in the Love of God; which is only able to fill up all the Corners of the Soule with most perfect Ioy; and Consequently to fixe all its desires upon those Celestiall Ioyes that shall never be taken from it. But this, as it cannot be obtained by Discourse, but by unfeigned Prayer, and the Assistance and Illumination of Gods Grace; So it is not my purpose to prick at it. And for that part of Felicity which is attained to by morall Virtue, I finde that every Virtue gives a Man Perfection in some kinde, and a degree of Felicity too: *viz.*

Honesty, gives a Man a good Report;
Justice, Estimation and Authority;
Prudence, Respect and Confidence;
Courtesie, and *Liberality*, Affection, and a kinde of Dominion over other Men.

Temperance, Health;

Fortitude, a quiet Mind, not to be moved by any Adverſity, and a Confidence not to be Circumvented by any danger.

So that all other Virtues give a Man but an outward Happineſſe, as receiving their Reward from others; onely *Temperance* doth pretend to make the Body a Stranger to Paine, both in taking from it the Occaſion of Diſeaſes, and making the outward Inconveniences of Want, as Hunger and Cold, if not delightfull, at leaſt ſufferable.

Fr. Walſingham.

A

A Briefe

DISCOVRSE

Concerning the Power of the

PEERES

AND

COMMONS

OF

PARLIAMENT,

In point of

JUDICATURE.

Written by Sir *Robert Cotton*, at the request of a Peer of this *REALM*.

LONDON;

Printed in the Yeare,

1651.

A Brief DISCOVRSE Concerning the POWER Of the PEERS, &c.

IR, To give you as ſhort an accompt of your deſire as I can, I muſt crave leave to lay you, as a ground, the frame or firſt modell of this State.

When, after the period of the *Saxon* time, *Harold* had lifted himſelf into the Royall Seat, the great Men, to whom but lately he was no more than equall either in fortune or power, diſdaining this act of Arrogancy, called in *William*, then Duke of *Normandy*, a Prince more active than any in theſe Weſtern Parts, and renowned for many Victories he had fortunately atchieved againſt the *French*

King, then the most potent Monarch of *Europe*.

This Duke led along with him to this worke of Glory, many of the younger Sonnes of the best Families of *Normandy*, *Picardie*, and *Flanders*; who as Vndertakers, accompanied the Vndertaking of this fortunate Man. The Vsurper slaine, and the Crown by War gained; To secure Certaine to his Posterity what he had so suddenly gotten, he shared out his purchase, retaining in each County a portion to support the Dignity Soveraigne, which was stiled *Demenia Regni*, now the antient Demeans; And assigning to others his Adventures such portions as suited to their quality and expence, retaining to himselfe dependency of their personall service (except such Lands as in free Almes, were the portion of the Church) these were stiled *Barones Regis*, the Kings immediate Free holders; for the word *Baro* imported then no more.

As the King to these, so these to their followers sub-divided part of their shares into Knights Fees; and their Tenants were called *Barones*, *Comites*, or the like; for wee finde, as the Kings write in their Writs, *Baronibus suis & Francois & Anglois*; the Soveraigns Gifts, for the most part, extending to whole Counties or Hundreds, an Earl being Lord of the one, and a Baron of the inferiour Donations

to

to Lords of Townſhips or Mannors. As thus the Land, ſo was all courſe of Iudicature divided; even from the meaneſt to the higheſt portion, each ſeverall had his Court of Law, preſerving ſtill the manner of our Anceſtors the *Saxons*, who *mera per pagos reddebant*; and theſe are ſtill termed Court Barons, or the Freeholders Court, twelve uſually in number, who with the *Thame* or chief Lord were Iudges. The Hundred was next; where the *Hundredus* or *Aldermanus*, Lord of the Hundred with the chief Lords of each Townſhipp within their limits judged.

Gods People obſerved this form in the publique, *Centuriones et Decani judicabant plebem omni tempore.* The County or *generale placitum* was the next; This was, ſo to ſupply the defect, or remedie the Corruption of the Inferiour, *Vbi Curiæ Dominorum probantur defeciſſe, pertinet ad Vicecomitem Provinciarum.* The Iudges here were *Comites, Vicecomites, & Barones Comitatus qui liberas in eo terras habeant.*

The laſt and ſupreme, and proper to our queſtion was *Generale Placitum apud London, Univerſalis Synodus*, in Charters of the Conqueror, *Capitalis Curia*, by Glanvile, *Magnum & Commune conſilium coram Rege & Magnatibus ſuis.* In the Rolls of *Hen.* the third, it is not ſtative, but ſummoned by Proclamation; *Edicitur generale placitum apud London*, ſaith

Lib. Ep. Glanvile.

faith the Book of *Abingdon*; whither *Episcopi, Duces, Principes, Satrapæ, Rectores, & Causidici ex omni parte confluxerunt ad istam Curiam*, faith Glanvile, Causes were referred *propter aliquam dubitationem quæ emergit in Comitatu, cum Comitatus nescit dijudicare.* Thus did *Ethelwel d* Bishop of *Winton* transfer his Sute against *Leoftine* from the County *ad generale placitum*, in the time of King *Etheldred*: Queen *Edgin* against *Goda* from the County appealed to King *Etheldred* at *London, Congregatis Principibus & sapientibus Angliæ.* A Sute between the Bishops of *Winton* and *Durham*, in the time of Saint *Edward, Coram Episcopis & Principibus Regni in præsentia Regis, ventilata & finita.* In the 10 year of the Conqueror, *Episcopi, Comites, & Barones Regia potestate è diversis Provinciis ad universalem Synodum pro causis audiendis & tractandis convocati* faith the book of *Westminster*, and this continued al along in the succeding kings Raigns untill towards the end of *Henry* the third.

Lib. Sancti Etheldredi Episc.

As this great Court or Councell consisting of the King and Barons, ruled the great affairs of State, and controlled all inferiour Courts, so were there certaine Officers, whose transcendent power seemed to be set to bound in the execution of Princes wills; as the Steward. Constable, and Marshall, fixed upon

Families

Families in Fee for many Ages: They as Tribunes of the People, or *Ephori* amongst the *Athenians*, grown by an unmannerly Carriage, fearfull to Monarchy; fell at the feet and mercy of the King, when the daring Earl of *Lecester* was slain at *Evesham*. This Chance, and the deare experience *Henry* the third himself had made at the Parliament at *Oxford* in the 40 yeare of his Raigne, and the memory of the many streights his Father was driven unto, especially at *Runny-mead* near *Staines*, brought this K. wisely to begin what his Successors fortunately finished, in lessning the strength & power of his great Lords. And this was wrought by searching into the Regality they had usurped over their peculiar Soveraigns (whereby they were (as the Book at St. *Albans* tearmeth them) *Quot Domini tot Tyranni*) and by weakning that hand of power which they carryed in the Parliaments, by commanding the service of many Knights, Citizens, and Burgesses to that great Councell. Now began the frequent sending of Writs to the Commons, their assents not only used in Mony, Charge, and making lawes (for before all Ordinances passed by the King and Peers) but their consent in Iudgments of all natures, whether Civill or Criminall. In proof whereof I will produce some few succeeding Presidents out of Record.

When

Liber Sancti Albani fol. 207 Anno 44 H. 3.

When *Adomar*, that proud Prelate of *Wircheſter*, the Kings half Brother, had grieved the State with his daring power, he was exiled by joynt ſentence of the King, the Lords, and Commons; and this appeareth expreſly by the Letter ſent by Pope *Alexander* the 4th. expoſtulating a revocation of him from Baniſhment, becauſe he was a Church-man, and ſo not ſubject to Lay Cenſures. In this, the Anſwer is, *Si Dominus Rex & Regni majores hoc vellent*, meaning his revocation, *Communitas tamen ipſius ingreſſum in Angliam jam nullatenus ſuſtineret.* The Peers ſubſign this Anſwer with their names, and *Petrus de Montford vice totius Communitatis*, as Speaker or Proctor of the Commons; For by this ſtile Sir *J. Tiptoft* Prolocutor affirmeth under his Arms the deed of entaile of the Crowne by King *Hen.* 4. in the 8. year of his Raign, for all the Commons

Charta orig. ſub Sigill. Anno 8. H. 4. apud Rob. Cotton.

Rot. Parl. anno 15 E. 2.

The Baniſhment of the two *Spencers* in 15 *E.* 2. *Prælati Comites & Barones & les autres Peeres de la terre & Commons de Roialme*, give Conſent and Sentence to the Revocation and Reverſment of the former Sentence; the Lords and Commons accord, and ſo it is expreſſed in the Roll.

Rot. Parl. anno 16. E. 2.

In the firſt of *Edward* the third, when *Elizabeth* the Widdow of Sir *Iohn de Burgo* Complained in Parliament, that

Rot. Parl. anno 1 E. 3. n. 11.

Hugh

Hugh Spencer the younger, *Robert Baldock*, and *William Cliffe* his instruments, had by duresse forced her to make a writing to the King, whereby she was dispoiled of all her inheritance, Sentence was given for her in these words. *Pur ceo que avis est al Evesques Counts & Barones & autres Grandes & a tout Comunalte de la terre, que le dit escript est fait contre ley, & tout manere de raison si fuist le dit escript per agard del parliam. dampne elloques al livre a la dit Eliz.*

In the 4th. of *Edw.* 3. it appeares by a Letter to the Pope, that to the Sentence given against the Earl of *Kent*, the Commons were parties as well as the Lords and Peers; for, the King directed their proceedings in these words, *Comitibus, Magnatibus, Baronibus, & aliis de Communitate dicti Regni ad Parliamentum illud congregatis injunximus, ut super his discernerent & judicarent quod rationi & justitiæ conveniret, habere præ oculis, solum Deum qui eum concordi & unanimi sententia tanquã reum criminis læsæ majestatis morti abjudicarent ejus sententia, &c.*

When in the 50th. of *E.* 3. the Lords had pronounced the Sentence against *Richard Lyons*, otherwise than the Commons agreed; they appealed to the King, and had redresse, and the Sentence entred to their desires. *Parl. Anno 50. Ed. 3.*

When in the first year of *R.* 2. *William* *Parl. 1 R. 2. n. 38. 39.*

am Weston and *John Iennings* were arraigned in Parliament, for surrendring certaine forts of the Kings, the Commons were parties to the Sentence against them given, as appeareth by a Memorandum annexed to that Record.

Parl. 1 H. 4. In 1 *H.* 4. although the Commons referre by protestation, the pronouncing the sentence of deposition against King *Richard* the second unto the Lords, yet are they equally interessed in it, as it appeareth by the record, for there are made Proctors or Commissioners for the whole Parliament, one Bishop, one Earle, one Abbot, one Baronet, and two Knights, *Gray* and *Erpingham*, for the Commons; and to inferre, that because the Lords pronounced the sentence the point of Iudgment should be only theirs, were as absurd, as to conclude that no authority was left in any other Commissioner of *Oyer* and *Terminer* than in the person of that man solely that speaketh the Sentence.

Rot. Parl. Anno 2. H. 5. In the second of *Hen.* the 5th. the Petition of the Commons importeth no less than a Right they had to act and assent to all things in Parliament; and so it is Answered by the King. And had not the Iournall Roll of the Higher House been left to the sole entry of the Clerke of the upper house, who, either out of neglect to observe due form, or out of purpose to obscure the Commons Right, and

and to flatter the power of those he immediately served, there would have bin frequent examples of al times to cleer this doubt, and to preserve a just Interest to the Commonwealth. And how conveniently it suits with Monarchy to maintain this form, lest others of that well-framed body, knit under one head, should swell too great and monstrous, it may be easily thought. For, Monarchy againe may sooner groan under the weight of an Aristocracy, as it once did, then under a Democracy, which it never yet either felt or feared.

R: C: B.

FINIS.

A SHORT VIEW OF THE Long LIFE and REIGN of HENRY the Third, King of *ENGLAND.*

Presented to King JAMES.

Written by Sir ROBERT COTTON.

LONDON,
Printed by WILLIAM BENTLEY,
for WILLIAM SHEARS at the *Bible*
in St. *Pauls* Church-yard. 1651.

A SHORT VIEW OF THE LONG REIGN OF King HENRY the Third.

WEaried with the lingring calamities of Civil Arms, and affrighted at the ſudden fall of a licentious Sovereign, all men ſtood at gaze, expecting the event of their long deſires (Peace) and iſſue of their new hopes (Benefit.) For in every ſhift of Princes, there are few, either ſo mean, or modeſt, that pleaſe not themſelves with ſome probable object of preferment. To ſatisfie all, a Child aſcendeth the Throne, mild and gracious, but eaſie of nature, whoſe Innocencie and natural goodneſs, led him ſafe along the various dangers of his Fathers Reign. Happie was he in his uncle the Earl of *Pembrook*, the

Hiſt. Miner. Matt. Paris.

guid of his infancie, and no less than for thirtie years after, whilst *De Burgo*, that fast servant of his Fathers against the *French*, both in *Normandie* and *England*, with *Bygod* Earl of *Norfolk*, and others of like gravitie and experience did mannage the affairs. Few and no other were the distempers than in State, but such as are incident to all, the Commons greedie of Libertie, and the Nobilitie of Rule, and but one violent storm raised by some old and constant followers of his Father, *Fulco de Breut de Fortibus*, and others, men that could onely thrive by the Wars, misliking those days of sloth, (for so they termed that calm of King *Henries* Government;) and the rather because the Justice of quiet times, urged from them, to the lawfull owners, such Lands and Castles, as the furie of War had unjustly given them, for finding in the uprightness of the King, that power of protection should not be made a wrong doer, they fell out into that rebellion, that with it, ended their lives and competitours, professing that those their swords that had set the Crown upon their Soverei gns head, when neither Majestie nor Law could, should now secure those small pittances to their Masters, when Majestie or Law would not. Dangerous are too great benefits of Subjects to their Princes, when it maketh the mind onely capable of merit, nothing of dutie. No other disquiet did the State after this feel but such as is incident in all, the malice to Authoritie. Good and great men may secure themselves from guilt, but not from envie: for the greatest in trust of publick affairs, are still shot at by the aspiring of those that deem

Matt. Paris, Hist. Major.

Hist. S. Albani.

deem themſelves leſs in imployment than they are in merit. Theſe vapours did ever and eaſily vaniſh ſo long as the helm was guided by temperate Spirits, and the King tied his Actions to the rule of good Counſel, and not to young, paſſionate, or ſingle adviſe.

Thirtie years now paſſed, and all the old guids of his youth now dead, but *De Burgo*, a man in whom nothing of worth was wanting but moderation,) whoſe length of days giving him the advantage of ſole power, his own ambition and age gave him deſire, and art, to keep out others, which wrought him into the fatal envie of moſt, and that increaſed in the Title of Earl, and great Offices the King then gave him. *Time* by this, had wrought, as in it ſelf, ſo in the hearts of the people, a Revolution, the afflictions of their Fathers forgotten, and the ſurfeit of long Peace; (perchance) having let in ſome abuſes; from hence, the Commons, to whom days preſent ſeem ever worſt, commend the foregone ages they never remembered, and condemn the preſent, though they knew neither the diseaſe thereof, nor the remedie.

Chron. de Duneſt. Joan. de Wallingford

To theſe idle and uſual humours, fell in ſome of the young and noble Spirits, warm and over-weaning (who being as truly ignorant as the reſt) firſt by ſullying the wiſdom of the preſent, and greateſt Rulers, (making each caſual mishap their errours:) ſeem to decipher every blemiſh in Government, and then by holding certain imaginary and fantaſtick forms of Common-wealths, flatter their own

Chron. Litchf.

belief and abilitie, that they can mold any State to these general rules, which in particular application will prove Idle and gross absurdities.

Gual. de Coven. Next confirmed in their own worth by *Sommery* and *Spencer*, they take it a fit time to work themselves into action, and imployment, a thing they had long desired, & now (though unwilling to seem so) do sue for; and doubtless, the furthest of their aim was yet, to become quiet instruments in serving the State, if they had been then held fit and worthy.

But the King taught by the new Earl, That *Consilia senum hastas juvenum esse*; and that such wits, (for so they would be stiled) were *Novandis quàm gerendis rebus aptiores*; fitter in being factious to disorder, than to settle affairs, either denied or delayed their desires; for wise Princes will ever choose their Instruments *Par negotiis*, and not *supra*, Creatures out of meer election, that are onely theirs, otherwise, without friends or power.

Matt. Paris, Hist. Minor. Amongst this unequal medly, there were of the Nobilitie, *Richard* Earl of *Pembrook*, *Glocester*, and *Hartford*, darlings of the multitude; some for the merit of their Fathers, whose memories they held sacred, as Pillars of publick libertie, and opposers of encroaching Monarchy; at *Runemeed* the Armies met. And of

Chron. Petri Pectav. the Gentrie, *Fitz-Geffeory*, *Bardolph*, *Grisley*, *Maunsell* and *Fitz-John*. Spirits of as much Acrimonie and Arrogant spleen, as the places, from whence they were elected, Camp, Court, or Countrey, could afford any: These by force would effect what the other did affect by cunning; but all impatient to see their ends thus frustrate,

fruſtrate, and that ſo long as the King followed the direction of the Earl of *Kent*, they had ſmall hope of their deſires, they made often meetings; and as one ſaith of them, *Clam & nocturnus colloquiis aut flexum in veſperum die.* *Mat. Paris.*

In the end, *Sommery* and *Spencer*, two that were far in opinion with the reſt, Gentlemen, by Forraign education and imployment, more qualified than uſually men of theſe times, and that ſet upon their own deſerts the beſt places when the Stream ſhould turn, (which one of them, *Spencer*, did unworthily obtain, for he died in actual Rebellion, *Juſticiarius Angliæ*, againſt his maſter) adviſed, that the beſt means to remove that great and good obſtacle, the Earl of *Kent*, out of the way of their advancement, was by ſifting into actions, and ſiding with his oppoſite. *Peter* Biſhop of *Winchester*, (an ill man, but gracious with the King) making ſtill their ends, that the worthieſt being driven out by the worſt, they ſhall either be able to mate him with his own vice, which will be ever more viſible, as he is more potent, and ſo remove him at pleaſure, or elſe give over the King to ſuch Miniſters, to their bad deſires, as looſing him the hearts of his people, might ſmooth them a way to their bad deſire, *Honores, quos quietâ Republicâ deſperant, perturbatâ conſequi ſe poſſe arbitrantur.* Thus Counſel heard, approved and put in practice, the corrupt, and ambitious Biſhop is eaſily inſnared to their part by money, and opinion or increaſe of power. *Cicero in Catil. ſive Orat. prima.*

Articles are in all haſt forged, and urged againſt the Earl, as ſale of Crown land; waſt of

of the Kings treasure; and lastly, (that which these doubtfull times held capital) his giving allowance to any thing that might breed a rupture between the Sovereign and the Subjects, as he had done in making way with the King, to annihilate all Patents granted in his nonage, and enforced the Subject to pay as the record saith, *Non juxta singulorum facultatem, sed quicquid Justitiarius æstimabat.*

Lib. Bermõsey vitæ Abbatis. Albani.

Well! he cleared himself of all, but the last, and did worthily perish by it; for acts that fill Princes Coffers, are ever the ruins of their first Inventers; bad times corrupt good Councels, and make the best Ministers yield to the lust of Princes, therefore this King cannot pass blamelesse, that would so easily blemish all former merits of so good a servant, for that wherein himself was chief in fault.

But Princes natures are more variable, and sooner cloid than others, more transitory their favours, and as their minds are large, so they easily over-look their first election, tying their affections, no further than their own satisfactions.

The Bishop now alone manageth the State; chooseth his chief instrument, *Peter de Rivallis*, a man like himself; displaceth his natives, and draweth *Poictions* and *Brittons* into Offices of best trust, and benefit; and the King into an evil opinion of his people. For nothing is more against the nature of the *English*, than to have Strangers rule over them: of this mans time, *Wendover*, an Authour then living, saith, *Juditia commutuntur injustis Leges ex legibus Pax discordantibus justicia injuriosis.* Thus the plot of the tumultuous Barons went clear, and

and had not the discreeter Bishop calmed all by dutifull perswasions, and informing the King that the support of this bold mans power (whose carriage before had lost his Father *Normandie*, the love of his people, and in that his Crown) would by teaching the son to reject in passion the just petitions of his loyal Subjects (as of late the Earl of *Pembrook*, his Earl Marshal of *England* the due of his office) drive all the State into discontent, by his bad advise, and corrupt manners, doubtless the rebellious Lords had ended this distemper, as their design was, in a civil War.

Regis Roffen. Annalis de Ely.

Denials from Princes must be supplied with gracious usage, that though they cure not the sore, yet they may abate the sence of it; but best it is, that all favours come directly from themselves; denials and things of bitterness from their Ministers.

Thus are the Strangers all displaced and banished, *Rivallis* extortions ransackt; by many strict Commissions of enquirie; the Bishop sent away disgraced, finds now that *Nulla quæ sita scelere potentia diuturna*; and that in Princes favours there is no subsistance between the highest of all, & precipitation. The Lords still frustrate of their malicious ends, began to sow of these late grounds of the peoples discontent, *Querelas & ambiguos de Principe sermones & quoq; alia turbamenta vulgi*, & took it up a fashion to endear and glorifie themselves with the senceless multitude, by depraving the Kings discretion & Government, whose nature too gentle for such insolent Spirits, was forced (as *Trevet* saith) to seek as he presently did, advise & love amongst Strangers, seeing no desert could

Claus. ann. 37 H. 3. M. 26. Chron. Hall.

could purchase it at home, all bore themselves like Tutors and Controllers, few like Subjects and Councellours. God we see holdeth the hearts of Princes, and sendeth them such Councellours as the qualitie of the Subject meriteth.

Chron. Litchf. Matth. Paris, Roger Wendover.

For *Mountford*, a *French*-man, became the next Object of the Kings delight, a Gentleman of choice bloud, education, and feature, on this mans content, the headie affection of the Sovereign did so much dote, that at his first enterance of Grace, in envie of the Nobilitie, he made him Earl of *Leycester*; and in no less offence of the Clergie, by violating the rites of the holy Church, gave him his vowed, vailed sister to wife. More of art than usually some have deemed this act of the Kings, making the tie of his dependencie, the strength of his assurance, so both at his will.

Chron. Joan. Sulgrave.

Mountford made wanton thus with dalliance of his Master, forgetteth moderation, for seldom discretion in youth attendeth great and sudden fortunes, he draweth all publick affairs into his own hands, all favours must pass from him, all preferments by him, all suits addressed to him; the King but as a cypher set to add to this figure, the more of number. Great is the Sovereigns errour, when the hope of Subjects must recognize it self beholden to the servant, which ought immediately to be acknowledged, from the goodness and good election of himself. Though Princes may take above others some repolefull friend, with whom they may participate their nearest passions; yet ought they so to temper the affairs of their favour, that they corrupt not the effects of their principalities.

At

At this, the great and graveſt men began to grieve, knowing the unworthie without honour or merit, thus to deal alone in that which ſhould paſs through their hands, and to leap over all their heads, to the greateſt Honour and Offices; and therefore run along with the then riſing grace of the Kings half brethren, (though ſtrangers) hoping thereby to divide that power, which otherwiſe they ſaw impoſſible to break

Leyceſter, confident of his Maſters love, and impatient to bear either Rival in Favour, or Partner in Rule, oppoſeth them all, but findeth in his ebb of favour, the Fortune of others, and that this King could ever as eaſily transferr his fancie, as he had ſettled his affection. Great we ſee muſt be the art and cunning of that man, that keeps himſelf afloat in the ſtream of Sovereigns favour, ſince the change of Princes wills, which for the moſt part are full of fancie, and ſoon ſatiate, are hardly arreſted. Who ſo would effect this, muſt onely attend the honour and ſervice of his Maſter, and diſpoiled of all other reſpects, transform himſelf into his inward inclination, and work into neceſſitie of imployment, by undergoing the offices of moſt ſecrecie, either of publick ſervice, or Princes pleaſures; he muſt alſo beat down Competitours of worth, by the hands of others, conceal his own greatneſs in publick with a feigned humilitie, and what impotency of Government he affecteth, let it rather ſeem the work of others, out of conveniencie, than any appetite of his own. *Chron. Read-ing.* *Henry Knigh-ton.*

Now were the rains of Rule, by this advantage, taken by the rebellious Lords, and put *Mob. Leyceſt.*

put alone into the hands of the Kings half brethren: *Adam, Guido, Godfray*, and *William*; himself as before; *Et magna fortuna licentiam tantum usurpans*: For to act his own part, he was ever wyar-drawn when he had such worthy servants as would often for his Honour urge it. For these Masters, (as *Watlingford* termeth them) *Tanta elati jactantia quod nec superiorem sibi intelligunt, nec parem mellitis & mollitis adulationibus animum Regis pro libito voluntatis à ratione tramite declinantes*; do alone what they list. They fill up the place of Justice and Trust with their Countrey-men. Strangers exact of whom, how, and what they please, waste the Treasure and Crown-lands on themselves, and their followers; set prizes on all offences, and rein the Law within the rule of their own breasts. The usual reply of their servants, to the plaints of the Kings Subjects, being *Quis tibi rectum faciet? Dominus rex vult; quod Dominus meus vult*; these Strangers seemed in their Lawless carriage not to have been invited, but to have entered the State by Conquest. The great men they enforced not to obey, but to serve, and the mean to live so as they might justly say, they had nothing; yet left the King should hear the groans of his people, and the wickedness of his Ministers, which good and able men would tell him, they barr all such access: Suspition being the best preserver of her own deserts; aimeth at these, who hath more of virtue than themselves, as fearing them most. Thus is the incapacitie of Government in a King, when it fals to be a prey to such Lawless Minions, the ground of infinite corruption in all the members

Will. de Reshanger.

Lib. Monastery Ramsey

bers of the State; all take warrant generally from Princes weakneſs, of licentious libertie and greatneſs, makes profit particularly by it, and therefore give way to increaſe ill, to increaſe their gains.

A Famin accompanieth theſe corruptions, and that ſo violent, that the King is enforced to direct Writs to all the Shires, *Ad pauperes mortuos ſepelicendos famis media deficientes*: Famin proceeds, *Fames præceſsit & ſecutus eſt gladius tam terribilis ut nemo inermis ſecuræ poſsit, Provincias per agare*: For all the Villages of the Kingdom were left a prey to the lawleſs multitude: Who *Per diverſas partes itinerantes velut per Conſentum aliorum*, (as the Record ſaith) did imply that the factious Lords ſuſpected by the King, had given ſome heat to that commotion; Seditious Peers bringing ever fewel to ſuch popular fires.

Clauſ. ann. 42 Hen. 3.

Chron. London.

Neither was the Church without a buſie part in this Tragick work; for *Walter* Biſhop of *Worceſter*, and *Robert* of *Lincoln*, to whom *Mountford* and his faction, *Præ cordialiter adhærebant* were far ingaged. In ſuch deſigns, Church-men are never wanting, and the diſtaſt of the preſent Government, (as well in the Church as in the Common-wealth) will ever be a knot of ſtrength for ſuch unquiet Spirits, who as well frame to themſelves ſome other form of Government; then the preſent in the Church, as in the temporal ſtate, as that which with the giddie multitude winneth beſt opinion, and did at this time fitly ſuit the peoples humours, ſo much diſtaſting the new Courts of the Clergie, their pomp, their greedineſs, and the Popes extortions.

Will. de Riſhanger.

A fair pretext was it to those factious Bishops, to use their bitter pens and speeches, so far against religious Orders, Ceremonies, and State of the Church, that one of them incurred the sentence of Excommunication at *Rome*, and Treason at home; for he enjoyned the Earl of *Leycester*, *In remissione peccatorum, ut causam illam* (meaning his Rebellions) *usque ad mortem assumeret, asserens pacem Ecclesiæ Anglicanæ nunquam sine gladio materiali posse firmari.* It was not the best Doctrine that this man could plant, by libertie or war, when the first Church rose by fasting and prayer.

M. Paris.
Will. de Rishanger.

True Pietie binds the Subject to desire a good Sovereign, but to bear with a bad one, and to take up the burthen of Princes with a bended knee, rather in time so to deserve abatement, than resist Authoritie.

Church-men therefore ought not always to lead us in the rule of Loyaltie, but a knowledge of our own duties in difficult points of Religion, where an humble ignorance is a safe & secure knowledge, we may relie upon them

To suppress these troubles, and supply the Kings extremitie, a Parliament was called, much to the liking of those Lords, who as little meant to relieve the King, as they did to acquit the State, their end, at that time, being onely to open at home the povertie of their Master, to lessen his reputation abroad, and to brave out their own passions freely, whilst those times of libertie permit.

Barth. Coron.
Chron. Norwic
Chron. Worc.

Here they began to tell him he had wronged the publick State, in taking to his private election the Justice, Chancellour, and Treasurer, that should be onely by the Common-Council

M. Paris.

Councel of the Realm, commending much the Bishop of *Chichester*, for denying delivery of the great Seal, but in Parliament where he received it. *Wendover.*

They blame him to have bestowed the best places of trust and benefit in his gift on Strangers, and to leave the *English* unrewarded, to have undone the trade of Merchants, by bringing in Maltolts and heavie customs, and to have hurt the Common libertie, by *non obstantes* in his Patents, to make good Monopolies for private favourites. *Wallingford M. Paris. Will. de Rishanger.*

That he hath taken from his Subjects, *Quicquid habuerunt in esculentis & poculentis, Rusticorum enim equos, bigas, vina, victualia ad libitum cepit.* *Chron. S. Albani.*

That his Judges were sent in circuits, under pretext of Justice, to fleece the people, *Causis fictitiis quoscunque poterant diripuerunt.*

And that Sir *Robert de Purslow* had wrung from the borders of his Forrest, under pretence of encrochments or asserts, great sums of money.

And therefore, they wonder, that he should now demand relief from his so pilled and polled Commons, who by their former extremities; *Et per auxilia prius data ita depauperantur, ut nihil aut parum habeant in bonis.* And therefore advised him, that since his needless expence, *Postquam regni cœpit esse dilapidator*, was summed up by them to above 800000 pounds It were fitting to pull from his favourites, who had gleaned the Treasure of his Kingdom, and shared the old Lands of the Crown, seeing one of them there, whom the Lords *Gual. de Coventrey.* *Will. de Rishanger.*

described to be *Miles literatus*, or *Clericus militaris*, who had in short space from the inheritance of an acre, grown to the Possession of an Earldom; and *Mansel* another inferiour Clark, that (besides 50. promotions with the cure of souls) rose to dispend in annual revenue 4000. marks, whereas more moderate Fees would have become a pen-man, no better qualified than with the ordinary fruits of a writing School; yet if a moderate supply would suite with the Kings occasions, they were content to perform so far reliefe in Obedience, as the desert of his carriage should merit towards them: And so as the Record saith, *Dies data fuit in tres septimanas, ut interim Rex excessus suos corrigeret, & Magnates voluntati ejus obtemperarent.*

Chron. Litchf. Hist. Minor. Will. de Rishanger. Epist. Robert. Lincoln. Match. Paris. Regis Roffen. Joban. de Wallingford. Chron. de Litchf.

At which day upon new grant of the great Charter, admittance to his Councel of some persons elected by the Commons, and promise to rely upon his Natives, and not Strangers for advise hereafter; they spare him such a pittance as must tie him to their Devotion for a new supply.

Thus Parliaments, that before were ever a medicine to heal up any rupture in Princes fortunes, are now grown worse then the malady, sith from thence more malignant humours began to reign in them, than well composed tempers.

The King by this, experienced of the intents of his rebellious Lords, and finding that the want of Treasure was the way whereby they inthralled his Majesty, begins now to play the good husband, closeth his hand of wast, and resolves himself (too late) to stand alone, such

ſuch experience is pernitious to the private, and dangerous to the publick good of a State, when it never learns to do, but by undoing, and never ſees order, but when disorder ſhows it Yet ſtill, alas, ſuch was his flexibilitie, when he came to be preſſed by his *French* Minions, that he could not hold his hand any longer from their vaſt deſires, and endleſs waſte. So that an Authour then living, ſaith, it became a By-word, *Our inheritance is converted to Aliens, and our houſes to Strangers.* Followers to a King exceſſive in gifts, are exceſſive in demands, and cut them not out by reaſon, but by example. Favours paſt are not accounted, we love no bountie but what is meerly future; the more that a Prince weakeneth himſelf in giving, the poorer he is of friends: For ſuch prodigalitie in a Sovereign, ever ends in the rapine and ſpoil of his Subjects

Yet before the King would again ſubmit himſelf, as he had the laſt Parliament to ſo many brave and ſtrict inquiries of his diſloyal Subjects, he meaneth to paſs through all the ſhifts, that extreamitie of need, with greatneſs of mind could lay upon him. He beginneth firſt with ſale of Lands, and then of Jewels, pawneth *Gaſcoyn*, and after that, his Imperial Crown, and when he had neither credit to borrow, (having ſo often failed the truſt he had made.) nor pawns of his own, he then layeth to pawn the Jewels and Ornaments of St. *Edwards* Shrine; and in the end, not having means to defray the diet of his Court, was enforced to break up houſe, (and as *Paris* ſaith) with his Queen & children, *Cum Abbatibus & Priori-*

Clauſ. ann. 46 & 47. H. 3.

Clauſ. ann. 37 Hen. 3.

Prioribus satis humiliter Hospitia quæsivit & prandia.

This low ebb, which again the Kings improvidence had brought him to, gave great assurance to the Rebellious Lords, that they should now at the last, have the Sovereign power left a prey to their ambitious designs, and to bring it faster on, they desire nothing more, than to see the Kings extreamitie constrain a Parliament, for at such times, Princes are ever less than they should be, Subjects more.

Will. de Rishanger. To hasten on the time, and adapt the means, there are sown certain seditious rumours, that the Kings necessitie must repair it self upon the fortunes and blessings of his people, that having nothing of his own left, he might and meant to take of others: For Kings may not want, as long as the Subjects have means to supply.

This took fire just to their minds, and wrought a little moving in the State, which doubtless had flamed higher, if the King had not asswaged it by Proclamations, wherein he declared, *Quod quidam malevoli sinistra prædicantes, illis falso suggesserant, illum velle eos indebite gravari, ac jura & libertates Regni subvertere, & per suggestiones illas dolosas & omnino falsas, eorum corda à sua maledictione, & fidelitate averterent*, but desireth, that, *Hujusmodi animorum suorum perturbationibus nè fidem adhiberent*, for that he was ever readie to defend them from the oppression of the great Lords, *Et omnia jura & consuetudines eorum, debitas bonas & consuetas, in omnibus & per omnia plenius observare*, and that they may rest of this secure:

Claus. ann. 49 lib. 3.

ſecure, *De voluntate ſua libera literas ſuas fecit patentes.* But ſeeing ſtill, that Majeſtie and Right ſubſiſt not without Means and Power, and himſelf had of neither, ſo much as would ſtop the preſent breach in his own wants, or his Subjects loyalties, he fleeth to the boſom of his people, for relief and Counſel.

At *Oxford* they met in Parliament, where his neceſſitie met ſo many undutifull demands, that he was forced to render up to their rebellious will, his Royal power. *Parl. Oxon.*

Here the Commons knowing that, *Cùm elegere incperunt*, they were *Loco libertatis*, ſtood with the King to have the managing of the State, put to the care of twentie four, whereof twelve by their election, (whereto they look ſtrictly) and the other by him, who in all things elſe, was left a Cipher, and in this, whether by fear, or remiſneſs, filled up his number with *Mountford*, *Glocester*, and *Spencer*, which beſides the weakening of his own part, won to thoſe his late oppoſites, an opinion of great intereſt they had got in his favour, he now hath left neither election of publick office, nor private attendants, his half brethren and their followers, he muſt diſpoil of all fortune, and exile by preſcription under his own hand, commanding his Writs, *Pro transportatione fratrum ſuorum*, to be directed to the Earls of *Hartford* and *Surrey*, and not to paſs either their Money, Arms, or Ornaments, *Niſi in forma quàm dicti Comites injunxerint*, and after their departure, enjoyned the men of *Briſtol* that they ſhould not permit any Strangers, *Sive propinquos Regis applicare in portis*, but ſo to behave themſelves therein, that as well the *Matt. Paris. Chron. Worc. Chron. Litchf. Clauſ. ann. 49 H. 3.*

King, *Quàm Magnates ſui eos merito debeant commendare.*

Thus we ſee, how eaſily mens eſtates do change in a moment, and how hard it is to make uſe of all things ill gotten.

Richard elect of the Empire, the Kings full brother, & then beyond Sea, muſt be wrought by letter, as his free deſire to confirm by oath thoſe former reſtrictions of Regal power; which though performed, yet would the Lords ſuffer neither the one or the other to enter *Dover* Caſtle (the key of the Kingdom) which they had furniſhed, as moſt of the other Forts of reputation in the Realm with Guardians of their own, ſworn reſpectively to the State; and then taking the like aſſurance of all the Sheriffs, Bailifs, Coroners, and other publick Miniſters, ſearching the behaviour of many by ſtrict Commiſſion upon oath, to win opinion in ſhew among the Vulgar, who groaned under their late Extortions, whereas their end was truly, as it after proved, by displacing the faithfull ſervants of the King, to open a way to their own dependants.

Chron. S. Albani.

Regis Roffen.

Rot. in Scrio. Will. de Riſhanger.

Thus changing ſole power into the Rule of many, and thoſe by popular election, made the State believe, that by this form of limited policie, they had utterly ſuppreſſed the mind of man, for ever dreaming more upon the imaginary humours of licentious Sovereigntie: But it fell out nothing ſo, for now every man began to eſtimate his own worth, and to hammer his head upon every deſign, that might enlarge his power and command.

Then began the great men to rent from the bodie of the Crowns, and regal Signiories, all

all ſuch royal Suitours as neighboured any of their own ſeats, whereto they enforce their ſervice, and ſo (as the Record ſaith) *Ad ſectas indebitas, & ſervitutes intolerabiles ſubditos Regis compulerunt:* Thus raiſing mean manners to become great honours, and renting aſunder the regal Juſtice, they made themſelves of ſo many ſubjects, whilſt they lived in dutie, *Totidem Tyranni* (as the book of Saint *Albans* ſaith) when they had left their loyaltie, *Magnas induxerunt Magnates Regni ſuper ſubditos Regis ſervitutes & oppreſsiones*, which they bore patiently; for exceſs of miſerie having no eaſe but Cuſtom, made men willing to lay the foundation of ſervitude by the length of ſufferance, which found no eaſe nor end, until the quiet of this Kings reign.

Scacar.

Rot. Regis in Seboa. 56. H. 3.

Mountford, *Gloceſter*, and *Diſpencer*, the heads of this Rebellious deſign, having by the late proviſions drawn to the hands of the twenty four *Tribunes* of the people, the entire mannaging of the Royal State, and finding that power too much diſperſed, to work the end of their deſires, forſt again the King to call a Parliament, where they delivered over the authoritie of the twentie four unto themſelves, and create a *Triumvirate*, *non conſtituenda Republicæ cauſa*, as they firſt pretended, for their own ends, and ſo in the intereſt of ſome private contentred, the publick was ſtayed; but to make a ſpeedier way to one of them as it fatally did, to become *Dictator perpetuus*: Ambition is never ſo high, but ſhe thinks ſtill to mount; that ſtation which ſeemed lately the top, is but a ſtep to her now & what before was great in deſiring, ſeems little being once in power.

Wallingford

Will. de Riſhanger. Chron. Dunſt.

These three, elect nine Councellours, and appoint, *Quod tres ad minus alternatim semper in curia sint*, to dispose of the custodie of Castles, *Et de aliis Regni negotiis*: the chief Justice, Chancellour, and Treasurer, with all offices, *Majores & Minores*, they reserve the choise of to themselves, and bind the King to this hard bargain upon such strong securitie, that he is contented under the great Seal, and Oath, to loose to them the knot of Regal dutie, whensoever he assumeth to himself his Regal dignitie, *Liceat omnibus de Regno nostro contra nos insurgere & ad gravamen nostrum opem & operam dare, ac si nobis in nullo tenerentur.* This prodigie of fortune of whom she had set a pitifull example of her inconstancie, finding no part of his Sovereigntie left, but the bare Title, and that at their leave, beggeth succour from *Urbane* the fourth, against his disloyal Subjects.

Ordin. inter Rec. Lond.

Chron. Origin. sub Sigillo.

The Pope by his Bull cancelleth his Oath and contract, and armed him with Excommunications against all those that return not with speed, to their due and old obedience, since promises made by men, which cannot say they are at libertie, are weak, and force hath no power to make just interest.

The Lords on the other side, that had imped their wings with Eagles feathers, and liked no game now, but what was raked out of the ashes of Monarchy, made head against their Sovereign, and to mate him the better, called in aid some *French* forces. Thus the Commonwealth turned again her sword into her own bowels, and invited her ancient enemie, to the funerall of her libertie, so that it was a wonder,

Chron. Lichf. Will. de Rishanger. Chron. Britan.

wonder, ſhe ſhould not at that time paſs under a forreign ſervitude. And though theſe men were more truly ſenſible of their own disgrace, than of others miſerie: yet found they no better pretext for private intereſt, than that of the publick. *Chron. Dunſt.*

And therefore at the entrie of this War, they cried Libertie, although when they came near to an end, they never ſpake word of it.

At *Lewis* the Armies met, where the King endeavours a reconciliation, but in vain, for perſwaſions are ever unprofitable, when Juſtice is inferiour to force. *Will. de Reſhanger.*

The ſword decides the difference, and gave the two Kings, and their eldeſt Sons priſoners. The Perſon now as well as the Regal power, thus in the hands of *Mountford* and *Glocester*, found neither bond of ſecuritie, nor expectation of libertie, but what the emulous competition of greatneſs (which now began to break out between theſe mightie Rivals,) gave hope of, for *Leyceſter* meaning by ingroſſing from his partner, to himſelf, the perſon of the King, and to his followers the beſt portion of the ſpoil, to draw more fruit from this advantage, than it ſhould in fellowſhip yield, diſſolved the knot of all their amitie.

Thus equal Authoritie, with the ſame power, is ever fatal (we ſee) to all great actions: for to fit minds to ſo even a temper, that they ſhould not have ſome motions of diſſenting is impoſſible.

Mountford having thus broken all faith with his confederates, and dutie to his Sovereign, left the path of moderation and wiſdom,

dome, to come to the King, by that of pride and diſtruſt. To him, he telleth, that his aims and ends had no other object ever but order of the State, and eaſe of the people, that he did not in this, carry affection againſt dutie, but well knew how to rein his deſires, to his juſt power, and ſo no leſs to his Majeſties content, if he would be ruled; which was to command the Forts and Caſtles of his now oppoſite *Gloceſter*, and the reſt into his hands. It was hard to this King thus to take a Law from his inferiour, but neceſſitie in Sovereign affairs doth often force away all formalitie; and therefore this poor Prince, who now at the Victors diſcretion ſeemed to have been onely raiſed to ſhow the inconſtancie of fortune, and vanitie of Man, ſuited himſelf with incomparable wiſdom, according to the neceſſitie of the time; neither did humilitie wrong Majeſtie, when there was no other means to contain Spirits ſo inſolent, but diſſembling. He therefore ſummoneth in his own perſon the forts of his faſteſt friends, to yield to his greateſt enemies. This he enters in ſhew as his lodging, but in effect his priſon, and ſaw himſelf forced to arm againſt his friends, and to receive now Law from him, to whom he lately thought to give it. Thus *Leyceſter* is become a darling of the Common rout, who eaſily change to every new Maſter, but the reſt durſt not ſail along with his fortune, by the light of his glory. Chriſtal that fairly gliſtereth doth eaſily break, and as the aſcent of uſurping royaltie is ſlipperie, ſo the top is ſhaking, and the fall fearfull. To hold this man then at the entrie of his falſe felicitie fully happie, was but to give the name

name of the image to the mettle that was not yet molten, for by this, the imprisoned Prince was escaped, and fast assured of *Glocester*, by the knot of his great mind, and discontent, and both with the torn remainder of the loyal Armie united, and by speedie march, arrived unlooked for, near *Evesham*, to the unarmed Troups of the secure Rebels, whom they instantly assailed, for it was no fit season to give time, when no time did assure so much, as expedition did promise.

Dispencer, and other Lords of that faction, made towards the King, with the best speed for mercy, but could not break-out, being hurried along the storm of the giddie multitude.

Publick motions depends on the conduct of Fortune, private on our own carriage; we must beware of running down steep hills with weightie bodies, they once in motion, *Suo feruntur pondere*, stops are not then voluntarie; but *Leycester* at that instant with the King, and out of the storm might have escaped, if His courage and hope had not made him more resolute by misfortune, so that he could neither forsake his followers, nor his ambition; Thus making adversitie the exercise of his virtue, he came and fell

The King by the blessed fortune freed, and obeyed, began to search the ground of his former miserie, and why that virtue and fortune, that had so long settled & maintained, under his Ancestors the glory of his Empire; had cast her in his time off, and conspired with

with her Enemies, to her almoſt ruine, as if the *Genius* of the ſtate had quite forſook her; Here he finds his waſteſull hand had been too quick, both over the fortunes and the bleſſings of his People, the griping Avarice of his Civil Miniſters, and lawleſs liberty of his Martial followers, the neglect of grace, and breach of his word, to have loſt his Nobility at home, and neceſſity his Reputation abroad, by making Merchandize of peace, and war, as his laſt refuge; ſo leaving his old Allies, became enforced to betake himſelf to perſons doubtfull, or injured, and that by giving over himſelf to a ſenſuall ſecurity, and referring all to baſe, greedy, and unworthy Miniſters, whoſe Councels were ever more ſubtle than ſubſtantiall, he had thrown down thoſe pillars of ſovereignty, and ſafety, Reputation abroad, and Reverence at home.

Rot. part. 53. H. 3. M. 51. Riſhanger.

He now therefore making ſweetneſs and clemency the entrances of his regained Rule, for the faults of moſt of the late Rebels he forgot, a gracious kind of pardoning, not to take knowledge of offences, others he forgot, that they might live but to the glory of his goodneſs, for the fewer killed, the more remains to adorn the Trophee.

Jo. Tuxeter, Mon. Bury. Rot. Cart. 51. 52. Hen. 3.

Tyrants ſhed b'oud for pleaſure, Kings for neceſſity, yet leaſt his Juſtice and power might too much ſuffer in grace and mercy, ſome few be puniſhed by ſmall fines, ſome by baniſhment, as the two guiltleſs, yet unpitied Sons of the Arch-traitour. Treaſon ſo hatefull is to the head, that it draweth (we ſee in this,) the carriage of the innocent children into an everlaſting ſuſpect, and what is ſuſpition in others

Clauſ. 52. H. 3. M. 29.

others is guilt in them: Upon the conſtant followers of his broken fortunes he beſtowed, but with a more wary hand than before, the forfeiture of his enemies: Immoderate liberality he had found but a weak means to win love, for it loſt more in the gathering, than it gained in the giving. This bounty beſtowed without reſpect, was taken without grace, diſcredited the receiver, and detracteth from the judgement of the giver, and blunted the appetites of ſuch, as carried their hopes out of virtue and ſervice: Thus at laſt, he learned that reward and reprehenſion juſtly laid, do ballance Government, and that it much importeth a Prince, the hand to be equal that holdeth the ſcale. *Chron. Dunſt.*

In himſelf, he reformed his natural errours, Princes manners, though a mute Law, have more of life and vigour than thoſe of letters, and though he did ſometimes touch upon the verge of vice, he forbore ever after to enter the circle.

His court, wherein at this time, the faults of great men did not onely by approbation, but Imitation receive true comfort, and authority; for their crimes now became examples, and cuſtomes he purged very judiciously and ſeverely, ſince from thence proceeds either the regular or irregular condition of the Common ſtate. *Ordin. author. Reg. aulæ.*

Expence of houſe he meaſureth by the juſt Rule of his proper revenew, and was heard often to ſay, that his exceſs of waſt before had been an iſſue of his Subjects bloud, the inſolency of his Souldiers made lawleſs by the late liberties of Civil arms, he ſpendeth in *Clauſ. ann. 35 Hen. 3. Riſhanger.*

forreign

forreign expedition. Having ſeen, that the quiet Spirits underwent all the former Calamities, and the other never were ſatisfied but in the miſery of Innocents, and would, if they had no enemies abroad, ſeek out at home, as they had done before.

Pat. 53. *&.* 54. *Hen.* 3. *Comment. de Trail baſton.*

The rigour and corruption of his judicial Officers he examineth, and redreſſeth by ſtrict Commiſſion; For the ſence of their ſeverity, became a murmure of his own cruelty.

The ſeats of Judgement and Councel, he filled up with men nobly born. For ſuch attract with leſs offence, the generous ſpirits to reſpect and reverence. Their Abilities he meaſureth not by favour, or by Private Information, as before but by publick voice, for every man in particular may deceive and be deceived, but no man can deceive all, nor all one.

And to diſcover now his own Capacity, and what part he meaneth to bear hereafter in all deliberate Expeditions, he ſitteth himſelf in Councel dayly, and diſpoſeth affairs of moſt weight in his own perſon. For Councellours be they never ſo wiſe or worthy, are but as acceſſaries, not principals, in ſuſtenta- of the State; their Office muſt be ſubjection, not fellowſhip in conſiderations of moment, and to have ability to adviſe, not authority to reſolve.

For as to live, the Prince muſt have a particular ſoul, ſo to rule his proper and intern Councel; without the one he can never be truely man, without the other, he ſhall never be ſecurely a Prince; for it offendeth as well the Miniſter of (merit) as the people to force

obedience

obedience to one uncapable of his own greatneſs, or unworthie of his fortunes. This wonderfull change to the general State (ſo hopeleſs lately to recover her former libertie, they ſought now for nothing but the mildeſt ſervitude) brought them home again with admiration to his devotion, and their own dutie.

He that will lay (weſe) the foundation of greatneſs upon popular love, muſt give them Eaſe and Juſtice, for they meaſure the bond of their obedience, by the good always that they receive.

This Peace attended, ever after, his age and hearſe, and he happily lived to faſhion his own Son and Succeſſour, and to make him Partner of his own experience and authoritie; whoſe own hard education training him from that intemperance, which make men inferiour to beaſts, framed him to affect glorie, and virtue; which made him ſuperiour to men. So that all the actions of his future Reign were exact grounds of Diſcipline and Policie; for his beſt ſucceſſour to rule by after, who as he was the firſt of his name ſince the Conqueſt, ſo was he the firſt that ſettled the Law and State, deſerving the Stile of *Englands Juſtinian*, and freed this Kingdom from the wardſhip of the Peers, ſhewing himſelf in all his Actions after, capable to Command not the Realm onely, but the whole World.

Barth. Coron. Chron. Norwic

Thus do the wrongs of our Enemies more than our own diſcretions, make us ſometimes both Wiſe and Fortunate.

FINIS.